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ACTS

PASSED BY THE

GENERAL ASSEMBLY,

OF

THE TERRITORY OF

MISSOURI;

IN

DECEMBER AND JANUARY,

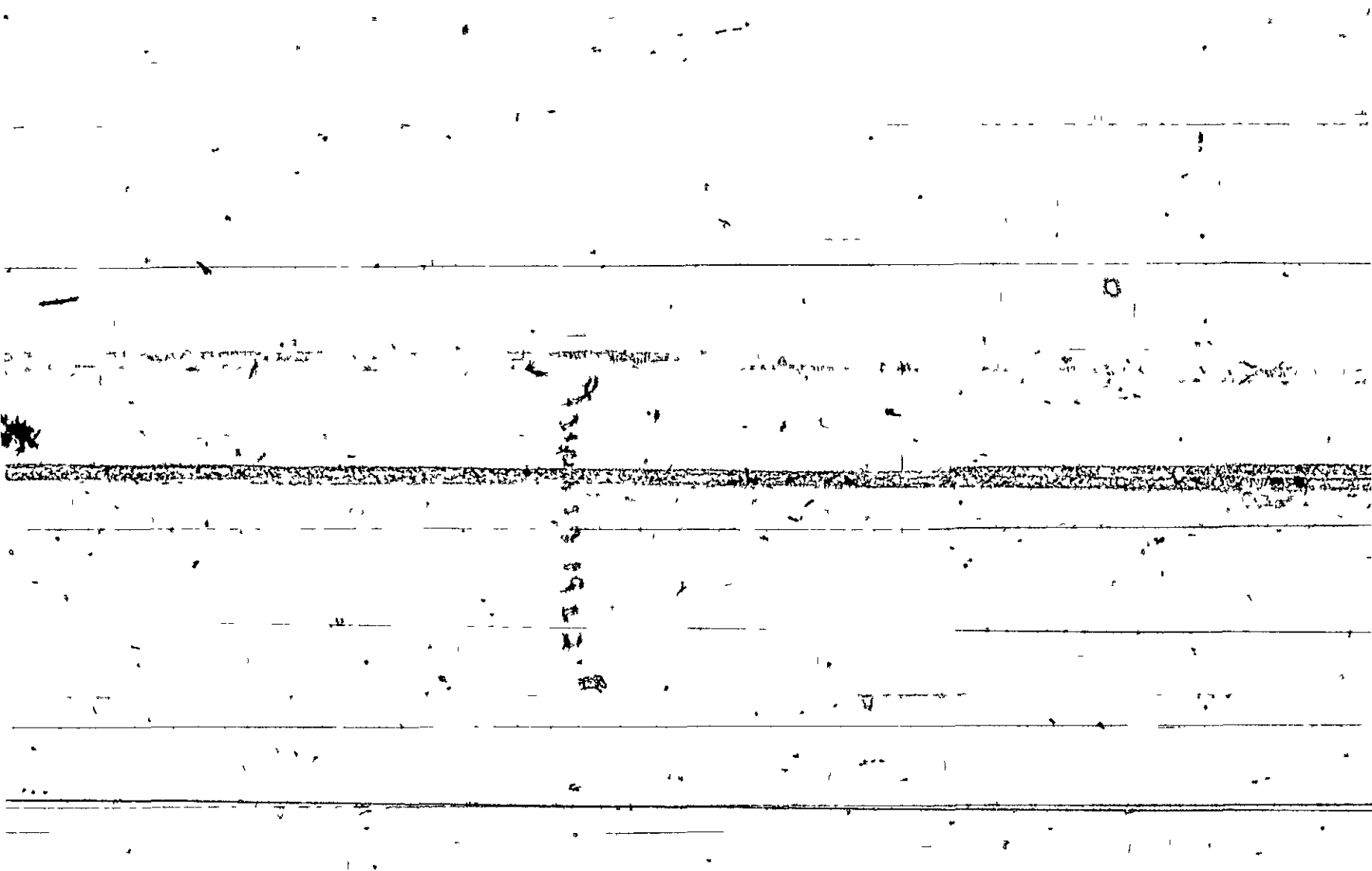
ONE THOUSAND EIGHT HUNDRED AND FOURTEEN AND FIFTEEN.

ST. LOUIS, (M. T.)

PRINTED BY JOSEPH CHARLESS,

PRINTER TO THE TERRITORY.

1815.



AN ACT

To reduce into one the several laws regulating the Militia.

BE *it enacted by the General Assembly of the territory of Missouri*, That every able bodied free white male inhabitant of this territory between the ages of eighteen and forty five years shall be liable to perform militia duty, to be enrolled by the captain or commanding officer of the company within whose bounds he may reside. It shall be the duty of said officers respectively to enrol every such inhabitant, as also such persons who shall from time to time arrive at the age of eighteen years, as well as those persons who come to reside within his bounds or limits. And it shall be the duty of the captain or commanding officer of each company to enrol from time to time all those who arrive at the age of eighteen years, and also those who come to reside within his bounds, and shall notify without delay every such person of their enrollment by a non commissioned officer or some other person by whom such notice can be proved: *Provided*, That no person shall be called upon to perform militia duty who has not resided at least two months within this territory, and ten days within the proper bounds of his company, except in cases of actual or threatened invasion, when any such person on proper notice being given may be ordered into service by the

Persons liable to militia duty.

How enrolled.

captain or commanding officer within whose bounds he may reside, and be subject to the same fines and penalties as are hereafter provided: *And provided also*, That the judges of the general court of this territory, secretary of the territory and such other persons as are exempted by the laws of the United States, to wit, all post-masters, the carriers of the United States' mail, and ferrymen on the United States' post roads, shall be and they are hereby exempt from militia duty. But it shall be lawful for any of the before mentioned persons thus exempted to accept of commissions in the militia, but on such acceptance they shall forfeit their privileges.

Exempts.

Sec. 2. *And be it further enacted*, That said inhabitants shall, under the direction of the commander in chief be formed into divisions, brigades, regiments, battalions and companies, each brigade to be composed of not more than five, nor less than three regiments; each regiment to be composed of two battalions; each battalion of not more than four nor less than two companies and that each company shall be composed of not more than one hundred nor less than thirty two non commissioned officers, musicians and privates: *Provided*, That when any number of militia in a county is not sufficient for a regiment, they shall compose a seperate battalion or be formed into independent companies, as the one or the other may be found most convenient. The regiments and battalions shall be numbered by the commander in chief from one upwards, and both shall rank according to their numerical designation. The officers of equal grade shall rank according to their

Divisions, brigades, regiments, battalions and companies.

How formed.

Rank.

commissions, and when there happens to be two such commissions of equal date, the rank shall be determined by the field officers of the regiment by lot: *Provided*, That at any regimental or battalion muster, the several companies shall form a regiment or battalion according to their seniority, and the same rule shall apply when different corps are assembled together, excepting so far as by custom, usage or necessity, the cavalry, artillery or light corps may be detached from the battalions.

Officers.

Sec. 3. *And be it further enacted*, That there shall be appointed and commissioned by the governor, to each company one captain, two lieutenants and one ensign; to each battalion one major; to each regiment one lieutenant colonel commandant. All officers who shall accept of an appointment under this law, and continue to reside within the bounds of their regiments, battalions or companies shall hold their commissions at least four years unless sooner removed by the governor or by the provisions of this act. The regimental staff shall consist of one adjutant, one quarter master and one pay master, to be chosen from amongst the subaltern officers, if fit persons can be found, one surgeon and one surgeon's mate, one sergeant major and one quarter master's sergeant, one drum major and one fife major. And for each company there shall be appointed one sergeant and one corporal for every sixteen men, and in a company one drummer and one fifer. All sergeants and corporals of companies shall be nominated by the captain or commanding officer of companies and appointed by the commanding officer of the corps. And all the non commissioned staff shall be appointed by the com-

Non commissioned officers

Staff

manding officer of regiments and battalions respectively.

Arms and accoutrements.

Sec. 4. *And be it further enacted*, That each militia man shall provide himself, within one month from the date of his enrollment with a good musket, a sufficient bayonet and belt, or a fusil, two spare flints, a knapsack and pouch with a box therein to contain twenty four cartridges suited to the bore of his musket or fusil, each cartridge to contain a proper quantity of powder and ball: or a good rifle, knapsack, pouch and powder horn with twenty balls suited to the bore of his rifle, and a quarter of a pound of powder. Every enrolled person shall appear so armed, accoutred and provided when called out to muster or into service; except that it shall not be necessary to appear on the parade with knapsacks when called out for exercise only. The commissioned officers of infantry when on duty for parade, exercise, inspection or service shall wear the uniform of the United States, and be severally armed with a sword or hanger; and the platoon officers, in addition to the sword or hanger, shall also be provided with an espontoon. And every officer whose duty requires him to be mounted shall be armed with a sword or hanger and a pair of pistols. Every person so providing himself with arms, ammunition and accoutrements required as aforesaid, shall hold the same exempt of suits, distresses, executions or sales for debt or damages or for the payment of taxes. And the said militia man as well as the persons composing the light corps hereafter in this act mentioned shall be exempted from arrest both going to and returning from parades, inspections and court martials or rendezvous by

Exempt from seizure.

order of their superior officer, or in compliance with the provisions of this act, except in case of treason, felony and breach of the peace: *Provided*, That the court for the assessment of fines shall have power to remit any persons fine not appearing with arms and accoutrements, if it shall appear to the satisfaction of such court that the person is in so reduced a circumstance that he cannot provide himself such arms and accoutrements.

Privileges from arrest.

Sec. 5. *And be it further enacted*, That any officer commissioned by virtue of this act, shall before he enters on the duties of his office take the oath of allegiance to the United States, and the following oath or affirmation to wit. "I do solemny swear (or affirm as the case may be) that I will faithfully execute the duties of in the according to the best of my abilities" which oath or affirmation shall be endorsed on the back of the commission by the person administering the same.

Oaths of office.

Endorsed on commission.

Sec. 6. *And be it further enacted*, That in all cases where the day has not been previously assigned and particularly mentioned at the last preceding muster (which is hereby declared to be a legal notice) for the troop, company, battalion, regiment or brigade to assemble on parade for muster, review or inspection, it shall be the duty of the commanding officer of the corps so to be assembled, to cause the orders to that effect to be given to the captains of their respective companies at least ten days before the said parade, and it shall be the duty of the said captains respectively to cause three days previous notice to be given to each individual of the company by an offi-

Notice of musters.

cer or non commissioned officer, or in writing left at his usual place of abode. *Provided however*, That when the commander in chief the brigadier general, the commanding officer of regiments, and battalions, and detached companies for the purpose of repelling invasion or attack, or to aid and support the civil authority shall command the service of the militia (which they are hereby after authorized to do) such previous notice shall not be necessary; but on the contrary every person subject to military duty shall march at a moments warning.

Bounds of battalions & companies

Sec. 7. *And be it further enacted*, That the lieutenant colonels commandant of the respective regiments shall designate and assign the boundaries and limits of the several battalions, the majors of battalions shall designate and assign the boundaries and limits of the companies, and the field officers of each regiment or a majority of them, authorised by the commander in chief may form new companies as the population increases or as the public interest may appear to require. The regimental parade grounds shall be fixed by the lieutenant colonel commanding respectively, the battalion parade grounds by the major and the places at which the several companies muster and parade shall be designated by the respective captains.

New companies.

Muster grounds.

Central places to be selected.

Sec. 8. *And be it further enacted*, That whereever by this law the power is given to the commanding officers of regiments, battallions or companies to appoint a place for the muster, review or exercise of any regiment or corps, or for the meeting of officers or courts of assessment, it shall be the duty of such commanding officer to choose as

central a place for such muster, review, exercise or other meeting as the circumstances of the case will admit.

Sec. 9. *And be it further enacted*, That every officer, non commissioned officer, musician and private shall appear at his respective muster field, whether regimental, battalion or company on the day appointed by ten o'clock in the forenoon, the officers in uniform and armed and equipped, and the privates armed as directed by this act, and not to leave the parade until permitted by the officer commanding the corps. And it is hereby made the duty of the said commanding officers to exercise their respective corps at least three hours of each regular muster day. At every muster each captain or commanding officer of a company shall direct the first sergeant of his company to call the roll in his presence, between the hours of ten and eleven o'clock, and also after the exercise is over and before the men are discharged, it shall also be the duty of such commanding officer to examine every person belonging to the company, note down all delinquencies occurring therein, and make return thereof, of the strength of the company, number of rifles, musquets, bayonets, fusils, and other equipments, to the commanding officer of his battalion, within ten days after such regimental, battalion or company muster as the case may be, at the hour at which, the regiment, battalion or company, is formed, proceed in like manner to call the names of the commissioned officers of his regiment battalion or company, examine and note down all delinquencies, and make return thereof, together with the reports from the commanding officers of companies: the commanding officers of regi-

Appearance at musters 10 o'clock.

Examination of arms, &c.

Returns.

ments shall make their reports within twenty days to the commander in chief; the commanding officers of battalions to the commanding officer of the regiment to which he belongs within fifteen days next succeeding such regimental or battalion muster; the commanding officers of independent companies to the adjutant general within thirty days succeeding such company muster. It shall be the duty of the commanding officer of such regiment within thirty days next after a muster of his regiment to cause the adjutant of the regiment to make out a compleate return thereof agreeable to such forms as shall be furnished by the adjutant general and transmit the same to the adjutant general. It shall moreover be the duty of the commanding officers of regiments, battalions and companies to make return of all delinquencies in their repective commands to the judge advocate who shall lay the same before the succeeding court martial or court for the assessment of fines.

Delinquencies.

Sec. 10. *And be it further enacted*, That if any non commissioned officer, musician or private at any regimental, battalion or company muster shall disobey the legal and proper orders of their superior officers appointed or otherwise act with disorder, or if any bye stander at any such muster shall insult or otherwise molest any officer, non commissioned officer or musician or private whilst on parade or employed on any other service authorised by the laws of this territory, the commanding officer of the regiment, battalion troops or company as the case may be may order such person or persons to be put under guard for any time not exceeding three hours, and the said person or persons so of-

Disobedience of orders at muster.

Disorderly conduct of bye standers.

tending shall moreover be subject to pay such fines as may be imposed in the manner herein after in this act provided.

Adjutant general.

Sec. 11. *And be it further enacted*, That the govenor shall appoint an adjutant general who shall perform all and singular the duties enjoined on an adjutant general by an act of Congress entitled "an Act to provide more effectually for the national defence establishing an uniform militia throughout the United States," and to an act in addition to the act before recited. The brigadier general may appoint one aid de camp, and shall appoint one brigade inspector, and a quarter master of brigade to each brigade. *Provided*, That no one person shall hold the office of adjutant general and brigade inspector at the same time. And the commanding officers of regiments shall appoint their regimental staff. It shall be the duty of the brigade inspector to attend the regimental and battalion meetings of the militia in his brigade during the time of their being under arms; to inspect their arms, ammunition and accoutrements and superintend their exercise and manouvres, and introduce the system of military discipline in this act directed throughout this territory agreeable to law and make returns to the adjutant general of the state of the militia at least twice in each year reporting therein the actual situation of the arms, accoutrements, ammunition of the several corps and every thing which in his judgment may relate to their government and the general advancement of good order and militia discipline.

Brigadiers aid.

Brigade inspector and quarter master.

Regimental staff.

Duties of brigade inspector.

Officers duties how ascertained.

Sec. 12. *And be it further enacted*, That whenever the militia laws of the United

States may not have detailed the duties of the respective officers in relation to the discipline of the militia such duty shall be determined by reference to William Duane's instructions.

Penalties

Sec. 13, *And be it further enacted*, That for compelling observance of the provisions of this act and for the purpose of introducing a proper degree of subordination and discipline in the operations of the militia of this territory the following penalties shall be incurred and inflicted, in the manner hereafter directed, that is to say: the adjutant general or brigade inspector for a violation or neglect of those duties imposed upon them by this act, shall incur a penalty not exceeding one years pay, nor less than three months pay;

On commissioned officers

any commissioned or staff officer failing to perform the duties required of him respecting the appointing and giving notice of regimental, battalion or company musters, or for his non appearance at such muster in uniform and equipped as the law directs, or for his failing to make those reports which by law he is directed to make shall forfeit and pay as follows, that is to say, a commandant of a regiment the sum of fifty dollars; major of a battalion, forty dollars; the commanding officers of a company or adjutant the sum of twenty dollars, a lieutenant or ensign the sum of ten dollars, and those officers respectively, moreover be liable to be cashiered at the discretion of a court martial.

On non commissioned officers and privates,

Each non commissioned officer failing to give notice of any muster when he shall receive orders for that purpose, without a reasonable excuse, shall be fined in the sum of five dollars; such non commissioned officer musician or private for failing to attend any

muster, review or inspection, or for disobeying any order which by virtue of this act his superior officer may give, or for his failing to repair to the prescribed rendezvous with his arms and accoutrements he being properly warned so to do, or failing to do his duty when there, or absenting himself without a lawful excuse shall forfeit and pay, that is to say, for non appearance on the parade two dollars, and for not being equipped and accoutred as this act directs the sum of fifty cents, and for absence without leave after appearance the sum of two dollars. Every non commissioned officer appointed in pursuance of this act shall serve for the term of one year, or pay a fine of ten dollars, the payment of which said penalty, shall if such person insist on the privilege exempt the person so refusing from the duties of the said office for the space of two years.

Sec. 14, *And be it further enacted*, That it shall be the duty of commanding officers of companies to proceed forthwith to divide their companies into classes by ballot from one to three for the purpose of the regular routine of duty when called into actual service, and return a roll of each class, and to number in rotation within thirty days thereafter, to the commanding officer of the battalion who shall transmit the same to the commanding officer of the regiment, who shall cause the same to be recorded by the judge advocate, and the commanding officer of the regiment or battalion shall make a return of the same to the adjutant general. *Provided*, That every non commissioned officer and private of the militia who shall have performed the last tour of duty by order of the United States shall be set

Classes.

in the third class as near as circumstances will admit. And if there are any that have not performed a tour of duty, they shall be set in the first class, and those who have performed the oldest tour of duty in the second class, as near as circumstances will admit, any thing in this act to the contrary notwithstanding. Every militia man moving out of one company into another shall apply to the commanding officer of the company to which he did belong, who shall give him a certificate certifying the class wherein he was arranged, and whether he had served his tour of duty or not, and also the date and time of such service: which certificate the said militia man shall produce to the captain or commanding officer of the company into whose bounds he shall so have removed, within five days after his residence in the bounds of such company, and such officer is hereby required to enrol him in his numerical class specified therein. And every militia man so removing and failing to produce such certificate shall be arranged and enrolled in the class destined to perform the next tour of duty. And if any captain or commanding officer of any company shall refuse to grant such certificate upon application made to him for that purpose, he shall, for such refusal forfeit and pay a sum not exceeding ten dollars, to be recovered and applied as other fines by this act directed.

Substitutes.

Sec. 15. *And be it further enacted*, That if any person shall be called upon to perform a tour of duty such person shall be acquitted provided he furnish his commanding officer with an able bodied substitute in his room or stead. No substitute shall be received unless armed as by this law direct-

ed: but if any substitute in his own turn should be called into actual service previous to the expiration of the time for which he shall have been enrolled, then the person procuring said substitute shall march in his room or procure a substitute for the remainder of the time, or be liable to the same penalties as if called upon in his own name. Any person called upon to perform a tour of duty as aforesaid, and serving by himself or substitute, or otherwise paying such fine as the court martial shall adjudge adequate to the offence such person shall not be bound to perform any tour of duty until regularly called upon in rotation.

Governor may order militia into service.

Sec. 15. *And be it further enacted*, That when it may be necessary to call into actual service any part of the militia on actual or threatened invasion of this territory or any of the neighboring states or territories that it shall and may be lawful for the governor to order into actual service such part of the militia as the exigency may require; and when any part of the militia of this territory shall be called into actual service it shall be the duty of the commander in chief to order from the regiment or battalion from which the militia shall be detached in proportion to the number of men furnished by said regiment or battalion a sufficient number of officers giving preference to the senior officers of said regiment or battalion, to officer said detachment. And in all cases the officers of the militia of this territory shall be called on to perform their tours of duty in rotation in the same manner as is by this act directed for the several classes of the militia: *Provided however*. That no militia man shall be compelled to serve more than six months at

Detachments to be officered.

How.

one time, and that sixty days shall be accounted one tour of duty.

On invasion actual or threatened.

Sec. 17. *And be it further enacted*, That if any sudden invasion shall be made or threatened to be made into this territory by indians or any other power, the commanding officer of the regiment, battalion or company where the invasion is made or meditated is hereby authorised and required to order out the whole or any part of the militia according to classification of his county, as he may think necessary for repelling such invasion, and shall call on the commanding officer of the adjacent county for such aid as he may think necessary who shall forthwith furnish the same. And it shall be the duty of every commanding officer of a county on receiving information of the invasion of his or any neighbouring county forthwith to give notice of the same by special messenger or otherwise to the governor of the territory, that he may make the necessary arrangements for repelling the same. And if any officer, non commissioned officer, musician or private shall neglect or refuse to appear upon the order of the commander in chief, brigadier general or other officer duly authorised as above, such delinquent shall forfeit and pay at the discretion of a court martial for the assessment of fines, a sum not exceeding one years pay nor less than three months pay, as established for the compensation of the service of such person when in actual service. The militia when in actual service of the territory shall be governed by the rules and articles for governing the armies of the United States.

Local officer to order out the militia.

Other duties.

Sec. 18. *And be it further enacted*, That if any officer shall misbehave or act with

insubordination, or in disorder, or in violation of the foregoing provisions whilst on parade, or assembled for review, muster or inspection or any other duties authorised or required by this act, he shall be immediately arrested by the commanding officer present and report to the brigadier general or commander in ceief; who for this as well as all other violations of this act shall order a court martial or court of enquiry for the investigation of the officer or trial as the case may appear to require. Every officer to be tried by a court martial shall have ten days notice given him of the time and place appointed for the trial and shall have a copy of the charges exhibited against him ten days at least before the sitting of the said court. In every court martial for the trial of an officer not less than two thirds of the members present shall agree in the sentence or judgment of said court, otherwise the person charged shall be acquitted. And when the members shall be required to give their votes on a question or decision, they shall begin with the youngest in commission: *Provided*, That no commissioned officer shall be allowed to resign his commission whilst under arrest.

Courts martial.

Regulations.

Sec. 19. *And be it further enacted*, That when a brigade, regiment or battalion assemble for review, inspection or exercise, the commanding officer shall order a guard of a subaltern or sergeant and such number of men as he may deem necessary, whose duty it shall be to receive and guard all such persons as shall be ordered under their charge by the commanding officer or inspector for misbehaving or refusing to attend to discipline in exercising and performing all those evolutions and other duties

Guards at musters.

which may be required of them by this law.

Misconduct of officers.

Sec. 20. *And be it further enacted*, That if any officer shall be guilty of a breach of of this law or in any respect neglect or violate his duty, or be guilty of any ungentlemanly conduct, he shall be heard, tried and if found guilty sentenced at the discretion of a court martial.

Parents bound for the fines of minor children, masters for servants, &c.

Sec. 21. *And be it further enacted*, That parents shall be bound for payment of fines incurred by their sons under the age of twenty years, guardians for the payment of fines incurred by their wards, and masters or mistresses for the payment of fines incurred by their servants or apprentices, and they shall be respectively charged therewith by the court of assessment accordingly.

Register of officers to be kept by adjutant.

Sec. 22. *And be it further enacted*, That it shall be the duty of the adjutant of each regiment to keep a register of the officers belonging to his said regiment for courts martial and courts for the assessment of fines.

Regimental staff how nominated.

Sec. 23. *And be it further enacted*, That a majority of the field officers of each regiment with the commandant shall nominate fit persons within their bounds to the governor of the territory, one as adjutant, one as paymaster, and one as judge advocate of the regiment and the governor shall, if he thinks said persons respectively qualified, appoint and commission them for their several duties. It shall be especially the duty of the judge advocate to prosecute in behalf of the United States and also perform such other services as are by this act prescribed.

Sec. 24. *And be it further enacted*, That

it shall be the duty of the pay master of each regiment independently of such duties as may be required of him by the commander in chief when called into actual service, to demand and receive from the different persons who have heretofore acted as sheriffs or pay masters, as well as those sheriffs who are now in office all monies which they have respectively received or ought to have received as militia fines. And in case such paymaster shall neglect or refuse to pay the amount of fines, so by him collected, or which ought to have been collected on demand being made by the paymaster of the regiment of the county of which he is or has been sheriff or paymaster it shall be lawful for such paymaster, on giving ten days previous notice to such sheriff or paymaster within or out of office to recover judgment in a summary way by motion against such sheriff or paymaster, in the name of the paymaster, for the use of the said regiment to which he may belong, in any court of record in the county in which said sheriff or paymaster may reside. Also to receive and receipt for all monies collected for fines and forfeitures within his regiment, and safely to keep the same until drawn out of his hands by the commanding officer of the regiment or battalion to which he may be attached, which said warrant shall be given in writing by the said commanding officer for the use of the said regiment or battalion, specifying the object to which the monies so drawn for are to be applied. The judge advocate shall transmit to the paymaster all the sentences of assessment or appropriations, which shall from time to time be made by the court martial or court of assessment, and it shall be the duty of the paymaster to receive and file the same.

Fines formerly received, how to be delivered over or recovered.

How money to be drawn out of the hands of the paymaster.

Judge advocate to transmit to paymaster sentences and assessments.

The paymaster shall, previously to entering on the duties of his office, in addition to his other qualifications prescribed by this act, execute a bond to the governor of the territory with security to be approved of by the commandant of the regiment in the sum of one thousand dollars for the faithful discharge of his duties as paymaster. And be the said paymaster shall annually in the month of May settle with the field officers of his regiment, or a majority of them the amount of all monies received and disbursed by him, and he shall be entitled to seven per centum for all monies so by him received and disbursed or paid out as above mentioned; immediately after which settlement it shall be the duty of such paymaster to report fully and at large a detailed statement of his accounts to the adjutant general and also to the commanding officer of his corps.

Bond of pay master.

Statement of pay masters accounts.

Sec. 23. *And be it further enacted*, That all general courts martial shall consist of a president and a judge advocate, and not more than twelve nor less than six members, who shall be nominated by the commander in chief, or by the brigadier general. And when the court martial is convened, the president shall administer the following oath or affirmation to the judge advocate to wit. 'You do swear (or affirm) that you will faithfully execute the office of judge advocate to this court for the prisoner to be tried to the best of your abilities or understanding, and the customs of war in like cases, and that you will not disclose or discover the opinion of this court martial until approved or disapproved by the commander in chief, and that you will not at any time discover the vote or opinion of any particular member, unless

How general courts martial are to be formed.

Oath of judge advocate.

called upon by a court of justice to give evidence thereof in due course of law. The judge advocate shall then administer to the president, and afterwards to every member the following oath, viz. "You do solemnly swear (or affirm) that you will well and truly try and determine according to evidence and the best of your understanding, and the custom of war in like cases between the United States and the prisoner to be tried, and that you will not disclose or discover the opinion of this court until approved or disapproved by the commander in chief, nor at any time disclose the opinion of any particular member, unless called upon to give evidence thereof, in due course of law." And if a legal member shall not have attended at the time and place appointed any three of those who shall have attended shall be a sufficient number to send for absent members. And in case such absentees shall neglect or refuse to assemble, a court of two and the president shall have power to fine those who do not attend without a reasonable excuse, in any sum not exceeding ten dollars for each day they shall so absent themselves.

Oath of the president and members.

Non attendance of members.

Sec. 21. *And be it further enacted*, That the commander in chief or the brigadier general shall when they or either of them may think proper, order general courts martial composed of officers of any regiment or battalion or from different regiments or battalions which said officers shall assemble at such place as the commander in chief or brigadier general shall appoint, and shall have power to hear, try and determine all complaints arising under this act which may be brought before them, but the members of such court shall not be fined unless

Gen. court martial by whom ordered.

approved or disapproved by the commander in chief. And the brigadier general may order extraordinary courts martial for the assessment of fines within any regiment or battalion, at such time and place as may be necessary: *Provided*, That the said court shall not set for any one regiment or battalion more than three times in each year and that notice of the time and place of the sitting of such court be given at a battalion or company muster, and the proceedings of such court shall not be final until approved or disapproved by the commander in chief: *Provided also*, That the commander in chief shall when he thinks it necessary to promote discipline or to enforce obedience with good order within the provisions of this law, order courts martial for the assessment of fines within any regiment, battalion or company, composed of such officers of the corps as the adjutant general shall direct for the service, not exceeding eight nor less than four commissioned officers, causing previous notice to be given at a regimental, battalion or company muster, or by an officer non commissioned officer in person, or in writing left at the usual place of abode of delinquents, or persons charged with a violation of this law or the militia laws of the United States, which courts shall hear and determine all cases which shall come before them respectively.

For assessment of fines.

Regimental courts martial.

Sec. 27. *And be it further enacted*, That the commanding officers of regiments and separate battations shall have power to order regimental courts martial for the trial of captains and subalterns, the sentence of which shall not be final until approved or disapproved by the commander in chief.

Sec. 28. *And be it further enacted*, That

the day succeeding a regimental or battalion muster a court for the assessment of fines shall be held by the commissioned officers of such regiment or battalion or any five of them. The highest officer in rank of such regiment or battalion that may be present shall be president: And the said court when convened shall have power to enquire into inability and delinquencies that may have happened at the preceding muster, and also all neglects or omissions of officers as well as privates; to hear and determine all appeals which shall be made by non commissioned officers and privates who may think themselves aggrieved by any sentence of their company court for the assessment of fines. The judge advocate shall act as clerk to each regimental and battalion court martial or court for the assesment of fines to which he belongs, and shall record in a book to be by him kept for that purpose the whole proceedings of such court, which proceedings at the close of each court shall be signed by the president of such court martial or court for the assessment of fines and countersigned by the judge advocate. The judge advocate shall be exempted from parade duty, and have an allowance made by the court not exceeding two dollars per day. It shall be the duty of commandants of regiments and battalions from time to time to certify to the pay master, the amount of such sum as the judge advocate may be entitled to and to issue a warrant for the payment thereof.

Court for assessment of fines.

Powers.

Judge advocate to act as clerk.

Pay certified.

Sec. 29. *And be it further enacted*, That the president of such court assembled for the assessment of fines and the punishment of delinquencies shall administer to the judge advocate the following oath or affir-

Oaths of the assessment court.

mation, to wit: 'You solemnly swear (or affirm as the case may be) that you will faithfully execute the office of judge advocate to this court, that you will keep an exact record of all their proceedings from time to time, and not disclose or discover the opinion of the court (when secrecy may be required) until approved or disapproved by the commander in chief, and that you will not disclose the opinion of any particular member unless called upon to give evidence in a court of justice.' The judge advocate shall then administer to the president and members of said court the following oath of affirmation, to wit: 'You solemnly swear (or affirm as the case may be) that you will assess all fines according to law and evidence to the best of your understanding, without partiality, favour or affection.'

Judge advocate to deliver lists of fines.

Sec. 30. *And be it further enacted*, That the judge advocate shall make out four fair and authentic fair copies of all fines assessed by a court martial or a court for the assessment of fines, and deliver such lists to the commanding officer of the regiment to which he belongs, one of which the commanding officer shall transmit to the adjutant general, one to the sheriff of the county, one other to the pay master, and one other he shall retain for his own use. The sheriff shall receipt for such list to such commanding officer and proceed to collect the amount of such fine contained in such list in the same manner as other monies are collected by execution from any court of record, and be entitled to the same fees and commission to be paid by the delinquent as is allowed on other executions. And the said fines when collected shall be paid over by the sheriff to the pay master of the regiment. And all

Sheriff to collect said fines.

fines imposed and collected by virtue of the provisions of this act shall be appropriated and disposed of as follows; the pay of the judge advocate and the necessary sum for the purchase of colours, drums and fifes, and all other necessary expenditures under this act shall be first deducted from the amount of the said fines, and other monies in the said paymastershands. And if there should remain any balance of money in said pay masters hands he shall be obliged to pay the same over once a year into the county treasury for the use of the county where he resides, and the said county treasurer shall receipt for the same. The commandant of the regiment or battalion shall on settlement with the pay master take a copy of such receipt and certify it to be such and deliver it to the clerk of the county court who shall preserve the same as evidence against such county treasurer.

How appropriated and accounted for

Sec. 31. *And be it further enacted*, That whenever an oath or affirmation shall be administered by the judge advocate to a witness, the said oath or affirmation shall be in the following form, to wit: 'You swear (or affirm as the case be) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth and nothing but the truth.'

Oath of witness.

Sec. 32. *And be it further enacted*, That when a judge advocate shall fail to attend a court martial, or court for the assessment of fines, such court shall appoint a judge advocate pro. tem. to act in his place. On the assembling of any court martial or court for the assessment of fines, the president thereof shall appoint a provost martial, whose duty it shall be to execute the com-

Judge advocate pro tem.

Provost martial.

stands, of the court, and keep any bye stander from interrupting the court whilst sitting. And if any person appointed as provost marshal shall neglect or refuse to act as such without making a reasonable excuse for such neglect or refusal such person shall be fined in any sum not exceeding five dollars at the discretion of the court martial making such appointment. And any person behaving in an indecent, provoking or riotous manner before the court when sitting shall be fined at the discretion of the court not less than four nor more than ten dollars. The president of any court martial or any general or field officer shall have power to issue summons to compel the attendance of witnesses, which said summons may be executed by such person as the general or field officer shall appoint or by the provost marshal under the direction of the court. And if any witness after being summoned shall fail to attend the said court at the time and place mentioned in the summons he shall be fined by the said court if no reasonable excuse for such absence can be assigned in a sum not exceeding five dollars at the discretion of the court. The court may moreover award an attachment to compel the attendance of such witness, and the said fine shall be collected and accounted for and appropriated in the same manner as other militia fines. All courts martial shall have power to adjourn from time to time, if it be necessary for them so to do. *Provided*, That such adjournment shall not be for a longer period than thirty days.

Fine for disorderly conduct.

Witness how summoned.

Failing to attend how compelled.

Fines, how appropriated.

Adjournment of courts martial.

Sec. 33. *And be it further enacted*, That on the refusal or neglect of the judge advocate faithfully to perform such duties as are

Judge advocates neglect of duty how punished.

by this act assigned him he shall be fined at the discretion of a court martial not exceeding fifty dollars.

Forms.

Sec. 34. *And be it further enacted*, That the necessary forms of courts martial which may not be expressed in this act shall be such as are established by the articles of war.

Orders of brigadier general.

Sec. 35. *And be it further enacted*, That all orders given by the brigadier general of this territory in pursuance of this act through his aid de camp or inspector, or directly from himself shall be obeyed and respected throughout this territory.

Independent and light companies.

Sec. 36. *And be it further enacted*, That when in the opinion of the commander in chief such corps can be conveniently raised and equipped, independent troops of horse and companies of artillery, grenadiers, light infantry and riflemen may be formed. And the said companies or corps shall choose their own officers, and be armed and wear such uniform as the officers of such company or a majority of them shall direct. And individuals composing those light companies shall not be subject to fines for not attending muster in their former companies. After an independent company is formed agreeably to law, no person belonging to such company shall be permitted to join any other company so long as he resides within the bounds of the regiments battalion or light company to which he belongs, unless after six months notice to the commanding officer of such company of his intentions to withdraw from such company or with the permission of the individuals composing the same. *Provided however*, That

Regulations as to the formation.

no person shall enrol himself in any light infantry or rifle company out of the bounds of the battalion to which he belongs. All artillery companies hereafter to be raised shall be attached to the regiment in the bounds where the captain commanding the same may reside, and be subject to the rules and regulations of the said regiment.

Regulations as to the government of the light companies.

Sec. 37. *And be it further enacted*, That all persons desirous of forming troops or companies of horse or artillery and who shall associate themselves shall subscribe certain rules and regulations for their government, which, when sanctioned by the commander in chief shall be binding on them. All such volunteer companies shall act, muster and parade by the special order of the adjutant general or commander in chief independently of and in addition to those duties which they are bound to perform by the company regulations and by the provisions of this act. Every trooper who shall enrol himself for this service, having furnished himself with a horse, uniform clothing and other accoutrements shall hold the same exempted from taxes and all civil prosecutions during his continuance in said corps. *Provided nevertheless*, That when any officer or private of any troop of horse shall keep and use a stud horse in said troop, no more than the tax of an ordinary horse on the list shall be exempted; *Provided*, That all such horses and accoutrements shall be registered with the purser of the troop or company, which officer shall be recommended by the troop and commissioned by the governor. It shall be the duty of the purser to act as clerk, to keep a list of all delinquencies, receive all fines and appro-

Exemptions of accoutrements from taxes &c.

Purser to register accoutrements.

priate them agreeable to such rules as shall have been adopted by the said troop: it shall moreover be the duty of the purser to keep a list of the distribution of all public arms, ammunition, accoutrements military, take a receipt for the same and make a report to his captain or commanding officer every two months of all delinquences, and of all monies received, paid out and remaining in his hands. Also all public stores and equipage belonging to the company and receive for his services such compensation as may be allowed by the said company. The commanding officers of troops, companies and light corps shall make a full report of the state thereof every six months to the commander in chief.

To act as clk.

His various duties.

Sec. 33. *And be it further enacted*, That in all cases not specially provided for in this act, the several acts of congress providing for the national defence by establishing an uniform militia throughout the United States shall be observed by the militia of this territory.

U. S. militia laws.

Sec. 39. *And be it further enacted*, That whenever in any of the several counties of this territory the sheriff shall make report to any one or more judges or justices of the peace that he hath in his custody one or more persons charged with any capital offence against the laws of the United States or of this territory, and that the jail of such county is in his opinion insufficient for the safe keeping of such prisoners, the judge or judges, justice or justices or any one of them if a judge of the territory, or any two of them if justices of the peace of the county, if in his or their opinion the said report of the sheriff be correct shall forthwith, to-

Sheriff may demand a militia guard in certain cases.

gether with the sheriff of the county certify the same to the commanding officer of the militia of the county or regiment for the time being, and it shall be the duty of the said commanding officer thereupon to order out of the militia a suitable number of officers, non commissioned officers and privates (sufficient for guarding and safe keeping such prisoner or prisoners, by regular rotation of duty in such manner and for such time as shall be the least inconvenient and burthensome to the militia, and at the same time consistent with the safe keeping of the prisoner or prisoners. If any officer shall refuse to obey such order, he shall be subject to be tried by a court martial, and be punished as by this act directed for disobedience of orders. And if any non commissioned officer or private shall disobey he shall be fined by the proper court the sum of three dollars to be assessed collected and appropriated as other militia fines.

Meeting of the officers for instruction.

Sec. 40. *And be it further enacted*, That the commandants of regiments be and they are hereby authorised and required to order the officers of their several regiments to appear at the usual place of holding regimental musters on the thursday previous to any regimental or battalion muster for the purpose being instructed in the military duties, agreeable to the rules and regulations prescribed by law.

Adjutant to instruct.

Sec. 41. *And be it further enacted*, That it shall be the duty of the adjutant of each regiment to attend at the times and places appointed by the commander of such regiment as aforesaid and instruct the officers as aforesaid, and if such officers shall fail to attend without a reasonable excuse they shall be fined at the discretion of a court for the

assessment of fines in any sum not exceeding thirty dollars. It shall be the duty of the adjutant of each regiment to make a return of such delinquent officers, if a field officer to the commander in chief who shall proceed against such delinquent according to law; and if an inferior officer to the judge advocate who shall lay the same before the next court for the assessment of fines, who shall proceed thereon as directed by this act.

Fined for non attendance.

Sec. 42. *And be it further enacted*, That the militia shall muster four times by companies, on the first saturdays of April, June, August and October, and by battalions twice, annually, once in the month of April, and one in the month of October, on such day in each month as may be appointed by the commander in chief. And once annually by regiments at such time as the commander in chief may appoint, unless the commander in chief shall dispense with the same: *Provided nevertheless*, That the commander in chief may order as many additional company, battalion or regimental musters as he may think proper for the good government of the militia and the safety of the territory.

Musters by companies, battalions, regiments.

Sec. 43. *And be it further enacted*, That the captain and subaltern officers of each and every company or a majority of them shall on the muster day next succeeding the muster of each company at which there has been any delinquency or delinquencies hold a court for the assessment of fines in each company, and any person thinking himself aggrieved by the decision of such court shall have liberty to appeal to the next regiment or battalion court for the assessment of fines.

Company courts for assessment of fines.

Appeals.

And the commanding officer of a company shall issue his warrant, directed to one of the sergeants of the company commanding him to cause the fine or fines to be made. And such sergeant shall be authorised to levy and make distress and sale of the goods and chattels of such delinquent and return the overplus if any to the person whose property he may sell as aforesaid. All fines collected by the provisions contained in this section shall be paid to the captain of such company, in ten days after the same may be collected, and by him applied for the purpose of purchasing a drum, fife and colours, and for other purposes for the use of his company.

Account and appropriation

Vacancies in the offices of brigade inspector, quarter master, adjutant, pay master, judge advocate, how filled.

Sec. 44. *And be it further enacted*, That in all cases where vacancies may happen of a brigade inspector, brigade quarter master, adjutant, paymaster or judge advocate which may not be filled for the want of proper officers to make such appointments, as are authorised under the provisions of this act, or in case of their neglect, the commander in chief shall make such appointments as may appear to him proper to supply such vacancies.

Pay of adjutant general, inspector.

Sec. 45. *And be it further enacted*, That the adjutant general shall receive fifty dollars per annum in full compensation for his services, and each brigade inspector shall receive three dollars per day for each day he shall attend any muster, and three dollars for every thirty miles he shall have to travel in full compensation for his services to be paid by the territorial treasurer, out of any monies in his hands not otherwise appropriated. And the said inspector shall file with the territorial auditor an account

on oath, of the number of days he has attended and the number of miles he has travelled, on receiving which the territorial auditor shall give him a certificate on the territorial treasury for the amount of his wages as aforesaid. The adjutant of each regiment shall receive for his services two dollars per day for each day he is obliged to attend to discharge the duties imposed on him by this act, out of any monies in the county treasury in which he resides on a certificate of the commander of the regiment certifying the number of days, said adjutant is entitled to receive pay for. The provost martial shall receive two dollars per day out of the militia funds of the regiment, battalion or company in which he has performed duty, on the certificate of the president of the court martial.

Regimental adjutant's pay.

Provost martial's pay.

Sec. 46. *And be it further enacted*, That every commissioned officer of the militia shall be furnished with a copy of this act at the expence of the territory. And it shall be the duty of every officer upon his going out of office to deliver over to his successor in office all the books and forms that he has been furnished with by the territory, and also all books and papers that are in his possesion and belonging to his brigade, regiment, battalion or company, and upon neglect or refusal shall forfeit and pay twenty dollars per month for every month he shall so neglect or refuse, after said books and papers have been demanded by his successor, to be recovered before any general or regimental court martial, and appropriated as other monies. And it shall moreover be the duty of every captain or commanding officer of a company to cause this act to be

Copies of this act to be supplied to militia officers.

Books, papers &c. to be delivered to successors.

and on parade to his company, at least one in every year.

Sec. 4. *And be it further enacted*, That a law passed by the governor and judges of the territory of Louisiana on the sixth day July one thousand eight hundred and seven entitled "an act regulating the militia" and the act entitled "an act to amend an act regulating the militia" passed the thirteenth day of October one thousand eight hundred and ten, and all other laws and parts of laws of this territory relating to militia shall be and the same are hereby repealed. This act shall be in force and take effect from and after the passage thereof. *Provided however*, That no fine shall be inflicted for a default under this act committed prior to the first day of March next, unless the militia be called into actual service before that time.

JAMES CALDWELL,
Speaker of the House of Representatives.

WM. NEELY,
President of the Legislative Council.

APPROVED, January 18, 1815.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Supplementary to an act, establishing counties and county lines.

BE it *enacted by the General Assembly of the Territory of Missouri*, That whenever it shall appear to the satisfaction of the court of common pleas or of the county court of any county now established or hereafter to be established, that the boundary line or lines of their county are not sufficient for ascertaining

duly special and well ascertained, it is hereby made the duty of the said court of common pleas or county court that may be hereafter established as aforesaid to issue an order to any person they shall select as county surveyor, requiring him on a certain day by them to be fixed on and mentioned in their said order, to ascertain, survey and mark such line or lines, designating in such order, from what point to what point. And it shall also be the duty of the said court making the order aforesaid, to give notice thereof at least ten days, prior to running and marking said line or lines to the county adjacent, whereupon the court receiving such notice shall issue an order to any person they may select as their surveyor ordaining him to proceed with the surveyor of the other county to survey and mark such line or lines as may be designated in said order.

How that order shall be executed.

Sec. 2. The person so as aforesaid selected as surveyor shall, on the reception of such order from their respective courts, proceed, on the day mentioned in said order to ascertain, mark and survey such line or lines, and if they shall not be able to finish the same in one day, to continue from day to day (sundays excepted), until the work shall be finished. They shall each make out a return of such line or lines so as aforesaid surveyed to their respective courts at their next succeeding term, which if approved by the court shall be recorded by the clerk as evidence of said line or lines.

Surveyors expenses.

Sec. 3. The said surveyor shall respectively make out their accounts of expenses for surveying and marking said line or lines, and if allowed by the courts shall be equal-

ly borne by said counties, and paid out of their respective levies or treasuries.

Non attendance of one of the surveyors.

Sec. 4. *And be it further enacted,* That in case either person shall not attend as surveyor for the purpose of surveying and marking said line or lines, it shall and may be lawful for the person attending on the part of either county or court to proceed alone to survey and mark said line or lines as herein before provided. And the surveyor so making the survey shall make two copies or plats of the line or lines thus run, and return one copy to each of the courts, which being approved of as aforesaid shall be recorded, and be the lines of the aforesaid.

And the expences accruing from running such line or lines shall be borne equally by the two counties, and be paid as is provided in the third section of this act.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED JANUARY 1, 1815,
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

For the relief of the Poor.

Counties to support their poor.

BE *it enacted by the General Assembly of the Territory of Missouri,* That each and every county in this territory shall relieve, support and maintain its own poor, such as the lame, blind, sick and other persons, who from age and infirmity are unable to support himself or herself, and who have no sufficient estate of their own, and

who has resided nine months next preceding the time of any order being made respecting such persons, in the county, and who has not moved from any other county for the purpose of imposing the charge of keeping such poor person in the county where he or she may have last lived for the time aforesaid.

Information as to paupers how obtained

Sec. 2. *Be it further enacted*, That the courts of common pleas in their respective counties, on the information of any justice of the peace of the county where any poor person may have resided for the space of time in the first section of this act mentioned, or on the knowledge of the judges of said court or any of them, that such person is lame blind or sick and thereby unable to support himself or herself, or from age and infirmity unable to support him or herself, and has no sufficient estate for that purpose. And on such court being satisfied of the truth of such information, it shall be their duty from time to time and as often and for as long a time as it may be necessary to provide at the expence of the county for the support and maintenance of such poor person, and to order from time to time the defraying of such expence by drawing orders on the treasury of such county.

This act shall take effect and be in force from and after the first day of February next.

JAMES CALDWELL,
Speaker of the House of Representatives,
WM. NEELY,
President of the Legislative Council.

APPROVED JANUARY 2, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

For the government of persons manufacturing of Salt Petre in this territory.

Whereas many people of this territory suffer great losses by reason of the neglect of persons manufacturing salt petre.

THEREFORE, *Be it enacted by the General Assembly of the Territory of Missouri,* That the owners or occupiers of each salt petre works within this territory, or that may be hereafter erected within this territory, shall keep the same enclosed so as to prevent cattle and every other kind of stock that may receive injury thereby from having access thereto. And every person, owner or occupier of any salt petre works within this territory failing to secure his works from being accessible by cattle or any other kind of stock that may be injured by drinking the salt petre water shall be liable to the action of the party injured by such neglect for double the value of any cattle or stock of any other kind that may be killed by drinking the same, to be recovered in any court of record having competent jurisdiction to try the same: *Provided however,* That if such owner or occupier of such salt petre works shall enclose said works with what shall be deemed a sufficient fence in law and keep the same in repair, such owner or occupier shall not be accountable for any trespassing animal receiving injury as aforesaid.

Occupiers of salt petre cases, to enclose them or be liable for the injuries which cattle suffer.

Sec. 2. This act to be in force from and after its passage.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELI,
President of the Legislative Council.
APPROVED, JANUARY 2, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Providing for the levying and collecting the territorial tax due from the county of St. Louis for the year one thousand, eight hundred and fourteen.

Whereas it has been represented to the general assembly, that the judges of the court of common pleas for the county of St. Louis have neglected to appoint an assessor or assessors for the said county, and have neglected, to levy and cause to be collected the territorial tax due from said county for the year one thousand eight hundred and fourteen.

THEREFORE, *Be it enacted by the General Assembly of the Territory of Missouri,* That the judges of the court of common pleas of the county of St. Louis shall, within five days after the passage of this law, hold a special session of said court, at the usual place of holding courts in said county, and shall without loss of time proceed to appoint an assessor in each township for said county and then and there do and perform all the duties directed and assigned to them by the several laws now in force in this territory regulating the fiscal concerns of the said territory so far as relates to the levying and collecting a territorial tax.

Special session for the appointment of an assessor.

Duty of assessors.

Sec. 2. And it shall be the duty of the said assessors to proceed immediately to make an assessment of all property to be assessed and made taxable for the territorial treasury, and also a list of all objects of taxation for territorial purposes as directed by law, and make a full return of their assessment within forty days after the time they shall receive such appointment. And it shall be the duty of the said assessors in valuing town property to be governed by what such property was worth on the first day of June in the year one thousand eight hundred and fourteen, and in their returns aforesaid to name the person or persons who were the owners of taxable property and the said person or persons shall be liable to pay the tax of the same: *Provided*, That any person who has settled in the said county since the said first day of June, and who is possessed of slaves, carriages or stud horses such person shall not be compelled to pay a tax for the same, for the year aforesaid. Nor shall any person be compelled to pay any tax under this act who has paid a territorial tax in any other county within this territory for the said year eighteen hundred and fourteen, or who has been legally charged with such tax in any other county as aforesaid, to be stated on the oath of the party.

Sheriffs duties

Sec. 3. And it shall be the duty of the sheriff of said county to proceed to collect the said territorial tax, and pay over the same within sixty days after he shall receive the list or lists of assessment. And it shall be the duty of the sheriff at the time he receives said list or lists, to enter into bond with sufficient security to be approved of by the court, as provided by the act sup-

plementary to the several acts regulating the fiscal concerns of this territory.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 2, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

To prevent the increase of vagrants and other idle and disorderly persons within this Territory.

BE *it enacted by the General Assembly of the Territory of Missouri.* That every able bodied person who is found loitering or rambling about, not having wherewithal to maintain himself by some visible property, and who doth not betake himself to labour or some honest calling to procure a livelihood, and all persons who may be found begging, and who quit their habitations and leave wives or children without means of subsistence whereby they suffer or become chargeable to the county, and all keepers or exhibitors of either of the gaming tables called A. B. C. or E. O. tables or of a faro bank, device or any other table or bank of any kind under any denomination whatever, and all other idle, vagrant and dissolute persons rambling about without any reasonable means of subsistence, shall be deemed and treated as vagrants.

Who are to be deemed vagrants.

Sec. 2. *Be it further enacted.* That where any such person is found within any county, any justice of the county shall upon in-

Duty of the justices as to vagrants.

formation or from his own knowledge, issue his warrant to the sheriff or constable to bring such person before him, and if upon the examination it shall appear to the said justice that he is within the description of vagrants aforesaid in this act, he shall commit him to the gaol of the county until the next county court, unless he enter into a recognizance in the sum of twenty five dollars with sufficient security in the same sum where such person may be taken up under this act for any thing else than keeping, exhibiting for the purpose of gambling at or on any of the tables or banks mentioned in the first section of this act, and if apprehended for this last mentioned offence, then in the sum of not less than fifty dollars nor more than five hundred dollars to be adjudged by the justice for his appearance before the said court and there to abide the determination of the same. If, upon examination it appears to the court that such person is within the description of vagrants and is a minor they shall direct the sheriff to bind him apprentice to some person of useful trade or occupation until he arrive at the age of twenty one years, and if such apprentice run away from his master he shall be dealt with as other apprentices who leave their masters before their apprenticeship expires; but if such vagrant be above the age of twentyone years, the court shall direct the sheriff to hire him to the highest bidder for the best price that can be had for any time or term not exceeding three months. *Provided however*, That no person whatever shall be bound or hired for any term unless it is first ascertained by the verdict of a jury sworn and empannelled for that purpose, that such person is a vagrant within

Vagrants, how dealt with.

the description of this act, and any person who shall hire such vagrant may exercise the same power over him as masters are allowed by law over indented servants: *Provided however*, if such vagrant shall have a wife or children within the county he may be set at liberty at the discretion of the court upon his entering into bond in any sum not less than fifty dollars nor more than two hundred dollars with sufficient security to be adjudged of by the court payable to the governor or his successors to return to his wife or family and follow some lawful calling for their support and maintenance: But if the wife and family of such vagrant live in any other county the court shall direct the sheriff or constable to convey him to the county in which his wife and family reside and deliver him to some justice of the peace for such county to be dealt with as is hereby directed.

Stripes, in certain cases.

Sec. 3. *Be it further enacted*, When no person will hire a vagrant who shall be deemed such by a jury empannelled and sworn for that purpose, or will not take him only by furnishing such necessary diet and clothing as he may stand in need of during his servitude, the court shall order such vagrant any number of lashes on his bare back not exceeding twenty-five and the sheriff shall see the same executed accordingly.

Hire of vagrants how disposed of.

Sec. 4. *Be it further enacted*, That money arising from the hire of any vagrant shall be applied by the court after the payment of costs to the paying his debts; but if he shall not be indebted, or do not owe to the amount of his hire, the same or the balance thereof shall be paid to such vagrant at the expiration of such time of ser-

vice, unless he has a wife or children, in which case it shall be applied to their use.

Forfeited bonds of vagrants.

Sec. 5. *Be it further enacted*, That where any vagrant shall have entered into bond and security as aforesaid, such bond shall be lodged with the clerk of the county court, and should the penalty be forfeited the court shall direct an execution to issue thereupon against the goods and chattels, lands and tenements of such vagrant and his securities for the amount of the sum for which they are bound, and the sheriff shall make distress and sell the same in like manner as on other executions, and the money arising thereon shall be applied towards lessening the county levy and be accounted for and paid in the same manner, and the clerk, sheriff and constable shall receive the same fees for performing the duties enjoined on them by this act as they are severally entitled to for services of a similar nature to be paid by the court out of the county levy.

Sheriffs, constables and grand juries to take notice of vagrants.

Sec. 6. *Be it further enacted*, That all justices within this territory shall see this act executed, and all sheriffs and constables within the several counties of this territory shall give information to some justice of the peace of all vagrants that may be within their knowledge, in their respective counties or such other disorderly or wandering persons who are lurking about without any visible means of maintenance as they may suspect to come under such description, and grand juries impannelled for any county shall make presentment of all such persons within the county as they may suspect to be vagrants agreeably to this act. And upon any such presentment the court shall di-

rect some justice to issue his warrant to bring such suspected person or persons before him. And if upon examination it appears to him that they come within the description of vagrants, the same steps shall be taken with such vagrants as are heretofore directed. And it shall be the duty of any justice of the county wherein there may be found any table commonly called A. B. C. or E. O. table or tables of the like kind or description to issue his warrant to the sheriff or constable to have such table burned or otherwise destroyed. Gambling tables.

Sec. 7. *And be it further enacted*, That it shall be the duty of the superior and circuit courts respecavely to give this act in charge to the grand jury at each and every term of either of the said courts. Charge to grand juries.

This act shall take effect and be in force from and after the first day of March next.

JAMES CALDWELL,
Speaker of the House of Representatives.

WM. NEELY,
President of the Legislative council.

APPROVED, JANUARY 3, 1815.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Establishing circuit courts, and county courts and for other purposes.

BE *it enacted by the General Assembly of the Territory of Missouri*, That there shall be, and there is hereby established in each and every county, now established or which may hereafter be established in this territory, except the county of Arkansas, a court to be styled the county court County court.

which shall be composed of the justices of the peace of the respective counties, any three of whom shall constitute a court or quorum to do business.

When, where & how often.

Sec. 2. *Be it further enacted*, That the said courts shall respectively hold four terms annually, at the place appointed for holding courts in their respective counties as follows to wit, in the county of St. Charles, on the first mondays of March, June, September and January; in the county of St. Louis, on the second mondays in March, June, September and January: in the county of Washington on the third mondays of March, June, September and January: in the county of St. Genevieve on the fourth mondays of March, June, September and January; in the county of Cape Girardeau, on the first mondays of April, July, October and February; in the county of New Madrid, on the second mondays of April, July, October and February.

Clerks of county courts

Sec. 3. *Be it further enacted*, That the county courts shall respectively in term time, each appoint a competent person as clerk who shall be commissioned by the governor, who shall be clerk of the county court, of the county in which he shall be appointed, who shall hold his office at the place where such county court may be held; and the said clerk shall give bond with one or more sureties to be approved of by the court of which he is clerk, to the Governor for the time being, and his successors in office in the sum of three thousand dollars, and take an oath faithfully to discharge the duties of his office, and seasonably to record the decrees, judgments and orders of the court of which he is clerk, and to do and perform

Bond.

all other duties required or which shall be required of him by law, and deliver up the records and other writings belonging to his said office whole, safe and undefaced to his successor in office, which oath shall be endorsed on back of said bond and filed in the office of the Secretary of the territory. *Provided*, That no person holding the office of justice of the peace shall be appointed clerk of any county court.

Jurisdiction.

Sec. 4. *And be it further enacted*, That the said county courts shall have the same powers and possess the same jurisdiction which the courts of common pleas now possess and exercise in all cases relating to public roads and highways, in cases relating to the territorial and county tax, in all cases relating to elections, and to the poor of the county, and in all other cases, relating to the concerns of the county.

Clerks to be recorders.

Sec. 5. *Be it further enacted*, That the clerks of the said several county courts shall be ex officio recorders of the said several counties, and shall do and perform all the duties appertaining to the recorders office and shall also do and perform all the duties required by law of the several clerks of the courts of common pleas in this territory, so far as the same relates to the jurisdiction of the county court thus established.

Circuits.

Sec. 6. *Be it further enacted*, That this territory shall be divided into two districts or circuits, for each of which there shall be appointed and commissioned by the governor one person learned in the law, who shall have resided in the territory at least one year previous to his appointment as circuit judge, with a salary, annually of twelve hundred dollars, to be paid quarter yearly

Judges.

Salary.

Oath,

out of the territorial treasury, who previous to entering on the duties of his office shall take an oath to support the constitution of the United States, and the oath of office, according to law. The said circuit judge shall hold three terms annually of the said circuit court, in each and every county within his circuit, and shall have jurisdiction of all civil cases above the sum of ninety dollars, and in all criminal cases except those the punishment of which is capital, and jurisdiction in all other cases now exercised by the courts of common pleas, except only such cases the jurisdisdiction of which is by this law given to the county courts. And appellate jurisdiction from the county courts and justices of the peace. The circuits shall be called the northern and the southern circuits, and shall be formed as follows to wit. The counties of St. Charles, St. Louis and Washington, shall compose the northern circuit; the counties of St. Genevieve, Cape Girardeau and New Madrid shall compose and form the southern circuit. And in case any new county or counties shall hereafter be established south of the counties of St. Genevieve and Washington, they shall form part of the southern circuit. The circuit court of the county of St. Charles shall be held in the town St. Charles on the first mondays of April, July and October annually; for the county of St. Louis at the town of St. Louis, on the second mondays in April, July and October annually; for the county of Washington at Potosi, on the fourth mondays in April, July and October annually; for the county of St. Genevieve, at the town St. Genevieve, on the second mondays in May, August and November annually; for the county of Cape Girardeau, at the house

Terms of circuit courts,

Jurisdiction.

Northern and southern.

When and where to be holden.

purchased by the commissioners for fixing the seat of justice for the county of Cape Girardeau, of William H. Ashley, near the town of Jackson on the fourth mondays in May, August and November, annually, for the county of New Madrid at the place of holding the courts therein on the first mondays in June, September and December annually, and in case either of the said circuit judges shall by death or unavoidable absence be unable to attend his circuit courts or any term thereof, it shall be the duty of the judge of the other circuit to attend in his place, and hold such court or courts until such vacancy shall be filed by the governor where the same shall have happened by death. It shall be the duty of the said circuit judges to reside in the circuit for which they shall be appointed. The said courts shall respectively be held until all the business before them shall be disposed of. *Provided*, That no person appointed a circuit judge under this law shall be at liberty to practise law. *Provided further*, That it shall be the duty of the circuit judges appointed by virtue of this act to go jointly into the respective circuits, in case any person appointed a judge under this law shall have been a practising attorney in any circuit to which he has been appointed a judge until the causes in which said judge shall have been concerned shall be determined. And in case any judge shall be interested in any cause in his circuit, it shall be his duty to make out a list of such case or cases and file the same in the clerks office of the court where the cause may be pending. It shall be the duty of the clerk of the circuit court where said judge is interested, a reasonable time before the term

Absence of a judge, how supplied.

To reside within his circuit.

Both judges to attend the C. C. in certain cases.

When a judge is interested.

the cause is set for trial to give to the other circuit judge notice thereof and it shall be the duty of the other circuit judge to attend such circuit for the trial of said cause. And if both judges shall happen to be or to have been interested or concerned in any cause or causes, they shall order and direct the same to be certified to the superior court to be there decided.

Tenure of the office of C. Judge.

Sec. 7. *Be it further enacted*, That the judges of the circuit courts shall hold their offices during the territorial government unless sooner removed for non feasance or misfeasance in office or neglect of duty by joint ballot of both houses of the legislature, two third of both houses concurring, in which case it shall be the duty of the governor to remove said judge from office. And in case a vacancy shall happen in the office of judge of the circuit court, by death resignation or otherwise it shall be the duty of the governor of the territory to fill such vacancy as soon thereafter as may be.

Clerks of the circuit courts.

Sec. 8. *And be it further enacted*, That the said circuit judges so soon after their appointment as may be shall respectively appoint in each county in their circuit a competent person as clerk, who shall be commissioned by the governor and hold his office at the place where such circuit court may be held. And the said clerks previous to entering on the duties of their offices

Bond.

shall give bond with two sufficient sureties at least to be approved of by the judge making such appointment to the governor of the territory and his successors in office for the time being, in the sum of three thousand dollars conditioned to seasonably record all decrees, judgments and orders of the court of which he is clerk and to do and perform

all other duties required or which shall be required of him by law, and to deliver up the records and other writings belonging to his said office, whole safe and undefaced to his successor in office and shall moreover take an oath well, truly and faithfully to the best of his abilities and judgment to discharge the duties of his office, which oath shall be endorsed on the back of the bond and be filed in the office of the secretary of the territory. And it shall be the duty of each clerk appointed by virtue of this section to procure a seal purporting to be the seal of the circuit court of which he is clerk.

Oath.

Seal of office

Sec. 9, *Be it further enacted*, That each and every clerk of any court of record now established or that may hereafter be established in this territory shall keep his office at or within a mile of the place appointed or fixed upon permanently for holding courts in the county in which such persons may be appointed clerk, And if any clerk shall fail or neglect to keep his office at the place appointed or fixed upon as aforesaid for holding courts in the county of which he is appointed clerk, every such clerk so failing and neglecting shall forfeit and pay for each and every day he shall so fail or neglect the sum of ten dollars, to be recovered by action of debt before the circuit court, one half for the use of the county and the other half for the use of any person suing for the same.

Clerks office where kept.

Sec. 10. *Be it further enacted*, That it shall be the duty of the several clerks of the courts of common pleas in this territory, on the application of the clerks of the circuit court and county court in their respective counties to deliver up to them respectively

Cl'ks. of com. pleas to deliver records, &c.

the whole of the records, papers and writings which may appertain to their respective offices, according to the jurisdiction of the courts of which they are clerks and according to the true intent and meaning of this act whole and undefaced, under the penalty of forfeiting and paying to the use of the county in which such person shall have been clerk of the court of common pleas the sum of one thousand dollars, to be recovered by action of debt, in the name of the governor for the use of the county.

Fees.

Sec. 11. *Be it further enacted*, That the clerks of the county courts, and clerks of the circuit courts shall respectively receive the same fees and compensations heretofore allowed to the clerks of the courts of common pleas for similar services.

Courts of com pleas abolished.

Sec. 12. *Be it further enacted*, That the said several courts of common pleas heretofore established within this territory shall be and the same are hereby abolished.

Business of old courts transferred.

Sec. 13. *And be it further enacted*, That all suits, process, motions and causes whatever they may be, either civil or criminal which are now commenced or pending in the respective courts of common pleas, or which may be hereafter commenced in said courts before the taking effect of this act shall be returnable to, have day and be disposed of and decided on by the circuit court of the counties respectively where such suits, process, motions and causes may have been commenced and are pending at the taking effect of this act. And in all cases where judgments may have been given by the courts of common pleas which remain unsatisfied it shall be the duty of the clerks of the circuit court respectively to issue executions on

Executions.

all such judgments returnable to the next circuit court of the county in which such judgment was given in the same manner that the clerks of the respective courts of common pleas might or would have done had this act never been passed and in all cases which are at issue or standing for trial either in the superior court or courts of common pleas, shall stand and come on for trial at the first term of the superior or circuit courts of the respective counties as hereby established, in the same manner as though a docket of the causes had been made and posted up according to law, any law to the contrary notwithstanding. And all sales of land by execution shall hereafter be made during the sittings of the circuit court of the county where such sale may be. And provided that all suits commenced, returnable to the next superior court and court of equity in the respective counties, and all process and pleadings whatever shall be returnable to, have day and be cognizable in the first terms of the superior courts and courts of equity in the respective counties, and be prosecuted to final judgment and determination in the same manner, as though the same had been commenced or continued to said court.

Cases at issue how decided.

Sales of land, when.

Sec. 14. *And be it further enacted*, That the circuit and county courts by this act established shall have power to fine and imprison for contempt, provided such fine does not exceed ninety dollars and such imprisonment shall not be longer than during the sitting of the court, unless any person thus imprisoned shall neglect or refuse to pay such fine, in which case the court may if they think proper order such person to re-

Contempts.

main in prison until such fine, together with the costs and charges be paid.

Superior court terms thereof.

Sec. 15. *And be it further enacted*, That the superior court and court of equity of this territory shall hereafter hold only one term in each county, that is now established or that may hereafter be established in this territory, except the county of Arkensas annually, as follows, to wit: in the county of St. Charles on the fourth monday in January; in the county of St. Louis on the first monday in February, in the county of Washington on the third monday in February, in the county of St. Genevieve on the fourth monday in February, in the county of Cape Girardeau on the second monday of March, in the county of New Madrid on the third monday of March, and shall continue in session in each county till all the business before them shall be disposed of. And the said superior court shall have appellate jurisdiction from all circuit courts both in civil and criminal cases by this act made cognizable in the circuit courts.

Capital offences how tried.

Sec. 16. *And be it further enacted*, That in all cases where any person now is or may hereafter be charged and committed in any county of this territory, except the county of Arkensas, for any offence which by the laws of this territory may be punishable with death, it shall be the duty of the sheriff of the proper county forthwith to give notice thereof in writing to the presiding judge of the superior court who may then be in the territory. And the presiding judge for the time being shall thereupon assign to himself, and one of the other judges of the superior court, or to the other two judges of the superior court, to attend a court in such

county to be called for the trial of all of any such offences as are punishable with death, and it shall be the duty of such judges to whom the attending such court is so assigned to issue their precept under their hands and seals to the sheriff or coroner (as the case may be) of the proper county, for the holding of such court; and they shall also issue their order to the clerk of the superior court of the proper county to issue a venire to attend such court, whereupon it shall be the duty of the sheriff to give public notice by proclamation at the court house door of the proper county, at least twenty days before the sitting of the court, and it shall be the duty of the judges to whom such attendance is assigned, at the time by them stated, which shall, in no case exceed thirty days from the time they receive the notice (unless they shall be on the duties of their circuit, in which case they shall attend within thirtydays after their circuit is completed) to repair to the proper county and hold a court for the trial of such case or cases, as aforesaid: Provided, that if either judge to whom the attendance on such court is assigned shall be unable to attend, it shall be the duty of the other two to attend. And the said court so met shall have the power to adjourn from time to time, and to hold adjourned courts for the trial of any criminal when it shall appear to them proper, or that a postponement is necessary to procure the attendance of witnesses or to do justice. And the expences for notifying the judges and forwarding the precept to the sheriff and all other expences shall be paid out of the criminals estate, if it is able to pay the same, in case of conviction; but in case the defendant is acquitted or his es-

tate is insufficient to pay the same the expences so accruing shall be paid out of the county treasury upon an order or orders drawn by the court or judges who attend such term.

Judges opinions to be recorded, in certain cases,

Sec. 17. *And be it further enacted*, That it shall be the duty of the judges of the superior court in all decisions or special verdicts, cases reserved, writs of error, demurrer, either in the course of pleadings or to evidence and motions in arrest of judgment severally to draw up their opinions in writing and deliver the same to the clerk, whose duty it shall be to enter such opinions at large in a book to be by him kept for that purpose.

When in force.

Sec. 18. This act as far as it relates to the superior court and to the appointment of circuit judges and their clerks, shall take effect and be in force from and after the passage thereof, and for other purposes, it shall take effect and be in force from and after the fifteenth day of February next, except that there shall be no court of common pleas held in the county of St. Charles at their next stated term.

JAMES CALDWELL,
Speaker of the House of Representatives.

WM. NEELY,
President of the Legislative Council.

APPROVED, JANUARY 4, 1815.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

For the relief of Joseph Stilwell.

Preamble.

Whereas it is represented to the General Assembly of the Territory of Missouri, that Joseph Stilwell, late auditor of public accounts for the district of Arkansas has proceeded under an act of the governor and judges of this territory passed the twenty-eighth day of October in the year one thousand eight hundred and eight to issue certificates in favor of grand jurors of said district on their presenting to him the certificate of the clerk of the court of common pleas certifying their attendance as such up to the month of October one thousand eight hundred and twelve, and that the said auditor did not receive notice of that law being repealed by an act passed the twentyfifth of October one thousand eight hundred and ten until after the said certificates were issued.

Auditors account to be allowed.

THEREFORE, *Be it enacted by the General Assembly of the Territory of Missouri*, That the said Joseph Stilwell as auditor as aforesaid shall be allowed in his account for all the said certificates so by him issued up to the month of October one thousand eight hundred and twelve: and that it shall be the duty of the general court for the county of Arkansas to allow the same in the settlement of the said Joseph Stilwell's accounts as auditor accordingly.

Proviso.

Provided, the said Joseph Stilwell shall first make oath or proof to the satisfaction of the said court that he was ignorant of the repeal of the said law at the time he gave such certificates, or any part of them.

Sec. 2. This act to take effect and be

in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 6, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Legalizing the acts and doings of the clerk of the general court of the county of Arkansas in certain cases and for other purposes.

BE *it enacted by the General Assembly of the Territory of Missouri*, That the clerk of the general court of the county Arkansas shall be ex officio recorder within the said county; and shall be authorised to demand and receive for all business by him done as clerk, the same fees and allowances heretofore given to the clerks of the courts of common pleas for similar services. And that all deeds, mortgages, conveyances, and other instruments of writing by the said clerk heretofore recorded shall be good and valid in law, so far as respects the recording of the same.

Clerk of the gen. court to be recorder.

Sec. 2. *Be it further enacted*, That the court of common pleas within the said county of Arkansas is hereby abolished, and the general court of the said county shall exercise and possess the same jurisdiction in all respects as heretofore possessed and exercised by the court of common pleas of said county. And that all appeals from justices of the peace and other process heretofore made returnable to the said court of com-

Court of com. pleas abolished and its powers given to the general court.

on pleas shall hereafter be made returna-
le to, heard and determined in the said
eneral court.

Sec. 3. *Be it further enacted*, That all
uits heretofore commenced in the court of
ommon pleas in the county of New Ma-
rid against inhabitants of the county of Ar-
ansas while the said county of Arkansas
vas supposed to be incorporated with the
aid county of New Madrid by the govern-
rs proclamation; it shall be the duty of
he clerk of the court of common pleas to
o send a transcript of all the proceedings
s soon as possible to the clerk of the gener-
l court of the county of Arkansas; and the
aid causes shall be heard, tried, and deter-
nined in the said general court of the coun-
y of Arkansas.

Suits begun in N. Madrid against inhabitants of Arkansas to be tried in the general court of Arkansas.

Sec. 4. *Be it further enacted*, That all
cts of the general assembly of this territo-
y that are repugnant to the provisions of
his act, are hereby repealed.

Repeal.

This act to take effect and be in force
rom and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 7, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Supplementary to an act regulating the proceedings on writs of habeas corpus.

BE *it enacted by the General Assembly of the Territory of Missouri*, That
t shall and may hereafter be lawful
or any person that may or shall stand com-

Application to be made to a judge or

Justices of the peace.

mitted or detained for any criminal charge or matter, or supposed criminal matter, unless for treason or some capital crime the species whereof is fully and plainly set forth in the warrant of commitment; and unless in those cases where the criminal has been committed after and on conviction by some court of justice competent to try the offence wherewith the person was charged, to apply to any judge of the superior court or judge of the court of common pleas, or to any two or more justices of the peace of the county where such person stands committed, for a writ of habeas corpus as is provided by the act to which this is a supplement. And it shall be the duty of such judge or justices of the peace to grant such writ as is provided by the act to which this act is a supplement. And it shall moreover be the duty of such judge or justices of the peace to set a time when they will hear the cause of imprisonment, which time shall not be more than fifteen days, nor less than five after the time of issuing the said writ of habeas corpus unless the prisoner shall request the time to be longer: and it shall be the duty of the judge or justices of the peace on appointing the time when they will hear the said cause, to issue compulsory process, directed to the constable of the township where such hearing is to be had, for witnesses for or against the prisoner at the instance of the prisoner or at the instance of any person who may wish to prosecute. And the said constable shall serve the said process on the witnesses therein mentioned and shall have the same fees as is provided for him in serving other process. *Provided however*, That if any person is detained in prison or confinement after his or her time

The judge or justices to fet a time to hear the cauſe.

Compulſory proceſs ag'nſt Witneſſes.

Proviſo.

of imprisonment or confinement has expired, and after such person has paid the fine if sentenced to pay any, together with all costs, such person shall be entitled to the benefit of this act with respect to writs of habeas corpus.

Writs of habeas corpus, to testify or to be surrendered in discharge of bail

Sec. 2. *And be it further enacted*, That the superior court and the several courts of common pleas within this territory and the judge of the general court for the county of Arkansas shall have power to issue writs of habeas corpus for the purpose of bringing the body of any person confined in any jail within the same before them to testify, or be surrendered in discharge of bail. And when a writ of habeas corpus shall be issued for the purpose of bringing into court any person to testify, or the principal to be surrendered in discharge of his bail, and such principal or witness shall be confined in any jail in this territory out of the county in which such principal or witness is required to be surrendered or testify the writ may run into any county in this territory, and there be executed and returned by any officer to whom it shall be directed; and the principal after being surrendered or his bail discharged, a person testifying as aforesaid shall by the officer executing such writ be remanded to the jail from whence he was taken by virtue of an order of the court for the purposes aforesaid, an attested copy of which lodged with the jailor shall exonerate such jailor from being liable for an escape. And the party praying out such writ of habeas corpus shall pay to the officer executing the same, such reasonable sum for his services as shall be adjudged by the courts respectively.

To run into any county.

Officer's fees.

Informality in the warrant of commitment not regarded.

Sec. 3. It shall be the duty of the said judge or justices of the peace to hear the evidence for and against said prisoner without any regard to any informality in the warrant of commitment or other proceedings previously had. And if it shall appear to said judge or justices that there is reasonable ground to believe that the prisoner has committed the offence charged upon him in the warrant of commitment they shall remand him to prison, or admit him to bail if the offence be bailable by law; and if the offence be bailable by law, and the prisoner shall refuse to give bail or shall be unable, the judge or justices shall remand him as aforesaid. But if the prisoner shall offer good and sufficient bail the said judge or justices shall take the same, and recognize the prisoner to appear at the next court to be holden in the county having jurisdiction of the said offence and shall return said recognizance to said court as is directed by the act to which this act is a supplement. But if it shall appear to the said judge or justices that the prisoner has not committed the offence charged upon him, the prisoner shall be discharged.

Remand or bail the prisoner.

Discharge.

Discharge for want of trial at the second term.

Sec. 4. If any person shall be committed and not admitted to bail, and shall not be tried on or before the second term of the court of common pleas or other court having jurisdiction of the offence, the prisoner shall be set at liberty by the court unless the delay shall happen on the application of the prisoner. *Provided however* That if such court at the second term shall be satisfied that due exertions have been made to procure the evidence for the United States, and that there are reasonable grounds to believe such evidence may be procured at

Proviso.

The court may continue the cause in certain cases.

the third term, they shall have power to continue such case till the third term. But if such prisoner shall have been admitted to bail for a crime other than a capital offence the court may continue the trial of said cause to a third term; if it shall appear by oath or affirmation that the witnesses for the United States (mentioning their names, and shewing wherin they are material) are absent.

Sec. 5. The third and fifteenth sections of the act to which this act is a supplement are hereby repealed. Repeal.

Sec. 6. This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative council.
APPROVED, JANUARY 11, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Establishing the county of Lawrence.

BE *it enacted by the General Assembly of the Territory of Missouri.* That all that part of the county of New Madrid and bounded as follows, to wit: beginning at the mouth of little red river on the line dividing said county from the county of Arkansas, thence with said line to the river St. Francois; thence up the river St. Francois to the division line between the counties of Cape Girardeau and New Madrid; thence with said last mentioned line to the western boundary line of the Osage purchase; thence with the last mentioned line to the northern boundary line of the Boundaries of the county of Lawrence.

county of Arkansas; thence with the last mentioned line to the place of beginning, is hereby laid off and erected into a seperate and distinct county, and which shall be called and known by the name of Lawrence county.

Commissioners to fix on a permanent seat of justice

Sec. 2. *Be it further enacted*, That Louis de Mun, William Robinson, William Hix, senr. Morris Moore, Solomon Hewit, Andrew Criswell and Isaac Kelley, be, and they are hereby appointed commissioners, with full and ample powers to point out and fix upon the most suitable and convenient place in the county thus established for the purpose of erecting a court-house and jail thereon. And the place which they or a majority of them may agree on shall be and the same is hereby declared to be the permanent seat of justice for the county of Lawrence.

Temporary seat of justice

Sec. 3. *Be it further enacted*, That the courts to be holden in said county of Lawrence shall be holden at such place as the said commissioners or a majority of them may adjudge most convenient for the purpose until a permanent place be fixed on by the commissioners as aforesaid, and a court-house and jail be erected according to the provisions of this act. *Provided however*, That the first county court and circuit court to be holden for said county shall be held at the house of Solomon Hewit, on Spring river.

Commissioners of the court house and jail.

Sec. 4. *Be it further enacted*, That the said Louis de Mun, William Robinson, William Hix, senr. Morris Moore, Solomon Hewit, Andrew Criswell and Isaac Kelley, are hereby declared to be commissioners of the court-house and jail of the a-

foresaid county of Lawrence, and they or a majority of them shall be, and they are hereby fully authorised and empowered to purchase, or receive as a donation, a title for such lot of land as they or a majority of them shall judge most convenient as a seat for the aforesaid public buildings, containing not less than fifty nor more than six hundred and forty acres, And they the said commissioners are hereby authorised and empowered, to take and receive, to them, their heirs executors and administrators, from the person or persons from whom they shall purchase, a good and sufficient warranty deed or deeds: which said deed or deeds shall be taken to them the said commissioners, their heirs executors and administrators, in trust to and for the use and benefit of the said county of Lawrence. And the said land so by them acquired, they or a majority of them shall cause to be laid off into lots or squares, and the lots or squares so to be laid off (reserving such as may be necessary for the public buildings) shall be sold by and under the direction of the said commissioners or a majority of them, either for ready money or on such credit (not exceeding one year) as they shall deem expedient for the good of the county. And that the said commissioners or a majority of them shall make, execute and deliver to the purchaser or purchasers of each lot by them sold, a good and sufficient deed or deeds in the name of the said commissioners with such warranty as they shall receive when they purchase the same, *Provided nevertheless*, That the said commissioners as aforesaid shall not make, execute or deliver to any person or persons, purchasers of the lot or lots so by them to be sold any deeds or

And,

To purchase or receive a donation of land.

To hold in trust for the county.

And lay it off into lots for the purpose of being sold.

Commissioners to make deeds with such warranty as they have received

But not before payment

deeds until the said payment of the purchase money for said lot or lots shall be fully made to them any thing in this act to the contrary notwithstanding. And the proceeds of such sale or sales after paying the purchase money or price of such land, shall be by them applied and appropriated first to building a sufficient jail, and the remainder (if any) towards building a court house. And the said commissioners or a majority of them are hereby authorised and empowered to let the buildings aforesaid or either of them to the lowest bidder, first giving thirty days public notice at three or more of the most public places in the said county, on such plan as they or a majority of them may deem proper.

Proceeds of sale how applied.

The public buildings to be let to the lowest bidder.

Sec. 5. *And be it further enacted*, That it shall be the duty of the governor of this territory as soon as may be, to notify the commissioners of their several appointments and the commissioners so appointed before they enter on the duties of their office shall take an oath or affirmation before some judge or justice of the peace of the county of Lawrence faithfully, to discharge the duties assigned them by this act; and shall moreover give bond with at least two sufficient sureties to be approved by the justices of the county court for the county of Lawrence in the penal sum of two thousand dollars each, conditioned that they will well, truely, faithfully and honestly appropriate and dispose of all and every part of the monies or property that shall come into their hands as commissioners aforesaid, to the sole use and benefit of said county; and carry into full force and effect the objects of this act: And further that if there should

Governor to notify the commissioners.

Commissioners to take an oath and

Give bond,

Condition.

be any surplus remaining in their hands after the objects of this act are accomplished, that they, and each of them will, under the direction of the county court of said county of Lawrence, pay the same into the treasury of the said county of Lawrence, or to any other person or persons the said court shall direct. Which said bond shall be given to the justices of the said county court, and to their successors in office for the use of the said county of Lawrence. And the said commissioners shall moreover render at each term of the county court for said county, as soon as the same may be organized a just and true account how far they have proceeded under this act, what purchase or purchases they have made, what donation or donations they have received, what sale or sales they have made, how much money they have received, and how much is due and owing and when payable.

Bond to whom given.

Commissioners to account at every term of the county court.

Sec. 6. *And be it further enacted*, That if any of the said commissioners shall refuse to act, or their offices in any way become vacant, then and in that case there shall be appointed by the county court of the said county of Lawrence, others in the place of those who thus refuse to act, or whose offices become vacant, who shall in all things comply with the requisitions of this act in the same manner the commissioners aforesaid are directed and required to do.

If from refusal to act, or otherwise vacancies happen the county court shall fill them.

Sec. 7. *Be it further enacted*, That the county court of Lawrence shall make a reasonable allowance to the said commissioners (or those who may be hereafter appointed) for their services under this act.

Sec. 8. *Be it further enacted*, That when the said commissioners or those which may

When the Commissioners

ers have performed their duties under this act they shall render their accounts for final settlement.

hereafter be appointed shall have fully and completely discharged and fulfilled the duties herein assigned them, it shall be their duty at the next court thereafter to present to the county court of said county of Lawrence all their accounts and proceedings under this act for a final settlement.

And,

And it shall be the duty of the court immediately to proceed to settle and adjust all such accounts and proceedings.

The court shall discharge them and cancel their bonds.

On which said final settlement if the court is satisfied that the commissioners have done their duty as herein assigned them, the said court shall give to the commissioners respectively a discharge from the duties assigned them, and shall cause their clerk to enter satisfaction on the bond or bonds of such commissioners.

Commissioners shall release the lands remaining in their hands to the justices.

And should any land be vested in the commissioners at the time of such settlement whether acquired by purchase or donation under this act. The commissioners shall respectively make and execute a release or quit claim, to the justices of the county court of Lawrence and their successors in office, in trust for said county, for all lands thus remaining vested in them the commissioners.

And the court may sell.

And the court shall have full power and authority to sell and dispose of such land or lots for the use of said county in as full and ample a manner as the said commissioners would have had before such settlement.

Proceeds to be paid to the county treasurer.

And the proceeds of sales made by the said court shall be paid into the hands of the county treasurer for the use of the county of Lawrence.

Commencement of this act.

Sec. 9. *Be it further enacted*, That from and after the first day of March next the said county of Lawrence shall be vested with all the powers, privileges and immu-

pities of a seperate and distinct county. *Provided*, That it shall be lawful for the coroners, sheriffs, constables and collectors for the county of New Madrid to do and perform all the duties which they are or may be required to do in the said county of New Madrid as before this act takes place. And all suits and actions which are or may be pending in the county of New Madrid at the time of the division shall be tried and determined in the same manner as though a division never had taken place. And the said pleas, actions and suits both civil and criminal, which shall or may be pending in the said county of New Madrid at the time this act takes effect shall be prosecuted and carried into final judgment and execution: and all taxes, fees, fines, judgments, and forfeitures which shall be then due or may become due in pursuance of suits, process, taxes, or proceedings then commenced or served, shall be collected by the officers of the county of New Madrid in the same manner as if this act had never passed, any thing in this law to the contrary notwithstanding.

Officers of N. M. to act as heretofore.

Suits began in N. Madrid before the division shall be there determined.

And all taxes dues, &c. to be collected by the officers of N. M.

Sec. 10. *Be it further enacted*, That any justice of the peace in the county of Lawrence who acted as such while it was included in the county of New Madrid shall have full power to proceed in all cases commenced or judgments given before the taking effect of this act; in as full and ample a manner as if such suits had been commenced or judgments given before him as a justice of the peace of the county of Lawrence.

Justices to proceed in unfinished business.

Sec. 11. *And be it further enacted*, That any person who now acts as a justice of the

Justices to deliver up their

papers &c. if not reappointed,

peace of that part of the county of New Madrid which falls into the county of Lawrence, and who may not be appointed a justice of the peace for the county of Lawrence shall deliver to some justice of the peace of the township in which he resides, all dockets, documents, and papers which may belong or relate to his office of justice of the peace, whole, safe and undefaced: and the justice to whom they are delivered shall receive the same, and give a receipt therefor, and whose duty it shall be to proceed on such docket, documents and papers, in the same manner that the justice delivering them up would have done had this act never had been passed.

And,

The justice who receives them to proceed as his predecessor would have done.

Times of holding courts.

Sec. 12. *Be it further enacted*, That the superior court shall annually hold one term at the place of holding courts in the said county of Lawrence on the first monday in April.

Superior.

The circuit court shall be held at the place of holding courts in said county, on the third mondays of June, September and December annually.

Circuit.

The county courts shall be held at the place of holding courts in said county on the fourth mondays of April, July, October and January annually.

County.

Provided it shall not be the duty of the superior court to hold a term in the said county of Lawrence on the first monday in April next.

This act shall take effect and be in force from and after the first day of March next.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 15, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

For the discharge of Joseph Thompson from his imprisonment.

WHEREAS, it appears to the satisfaction of the General Assembly that Joseph Thompson is now confined in the jail of the county of St. Louis for endeavoring to pass counterfeit bank papers, knowing them to be such, and that his time of imprisonment has expired; but in conformity to the sentence of the court, he is to remain in prison until the fine and costs (the consequence of his conviction) shall be fully paid. And it appearing that the said Joseph Thompson is unable to pay the said fine and costs. Preamble.

BE it therefore enacted by the General Assembly of the Territory of Missouri, That Joseph Thompson now confined in the jail of the county of St. Louis is hereby declared to be liberated from his confinement in prison from and after the passage of this act. And the sheriff of St. Louis county is hereby directed to discharge the aforesaid Joseph Thompson accordingly. *Provided*, That nothing in this act contained shall free the property of the said Joseph from execution for any fine or costs that may by law have been attendant on his imprisonment. Discharge. His property still liable for fine or costs.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 16, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

For the appointment of circuit Attornies, and for other purposes.

Appointment of circuit attornies

And

Prosecuting attorney for Arkansas.

BE it enacted by the *General Assembly of the Territory of Missouri*, That there shall be appointed and commissioned by the governor, a suitable person learned in the law as circuit attorney, for each of the circuits established by law in this territory: And also a prosecuting attorney for the county of Arkansas, who shall severally take the like oath of office, perform the like duties, have the same powers and be entitled to the same fees in the aforesaid circuits and county of Arkansas, as are now prescribed by any act of this territory.

Attorney gen. his office abolished.

Sec. 2. From and after the passage of this act, the office of Attorney General as now established by law shall be, and the same is hereby abolished.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED JANUARY 17, 1815,
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Directing the mode of perpetuating testimony in this territory.

BE it enacted by the *General Assembly of the Territory of Missouri*, That on the petition of any person or persons to one of the judges of the circuit courts or superior court of this territory praying for a dedimus to take the deposition or depositions of any person or persons named therein within this territory, the petition setting forth that the testimony is to perpetuate the remembrance of any fact, matter or thing which may relate to the boundaries of lands, improvements of lands, name or former name of water courses, the name or former names of any portion or district of country, or regarding the ancient customs, laws or usages of the inhabitants of this country as far as the same may relate to the future settlement of land claims or touching pedigree, titles to slaves or any other matter or thing necessary to the security of any estate real or personal, or any other personal right; particularly specifying the fact or facts intended to be proved, and supported by the affidavit or affirmation of the applicant that the fact or facts stated in his petition he believes to be true. The said judge shall award a dedimus directed to any two justices of the peace, or to any of the clerks of the superior or circuit courts in the county where such testimony is to be taken, for the purpose of taking such deposition or depositions prayed for in the petition. *Provided however*, that it shall be the duty of the person or persons praying for a dedimus for the purposes before mentioned before proceeding to take the deposition or depositions to give one month's previous notice, with a copy of

On petition a judge of the superior or circuit court shall award a dedimus.

To whom directed.

Proviso.

Petitioner to give a month's notice, &c.

the petition annexed to each and every person that may be known to be interested in the matter to be the subject of the deposition or depositions, or to his, her or their attorney; or in case the person be a married woman, the notice to be served on her husband or if a minor to be served on his or her guardian, or if he or she should have no guardian or the guardian should be interested then a guardian to be chosen by the court for that purpose and the said notice shall contain information of the time and place where the said testimony is to be taken, or in lieu of written notice, he, she, or they shall cause the notice in form as aforementioned, with a copy of the petition addressed to whom it may concern to be published once a week for one month, which shall be at least two months previous to the day of taking such depositions, in at least one of the public newspapers printed in this territory.

Manner of taking depositions.

Sec. 2. *Be it further enacted*, That the said justices of the peace or clerks of the superior or circuit courts as aforesaid shall attend at the time and place appointed where each and every person who may think himself, herself or themselves interested in the depositions about to be taken, may attend by themselves or by their attornies, and may examine and cross examine such deponent or deponents; and all the questions and answers shall be reduced to writing and included in such deposition. And the deposition being reduced to writing in the English language, or the language of the deponent if the deponent does not understand the English language: and moreover as near as possible in the very words of the witness and distinctly read over to said wit-

ness, and subscribed by such witness, the said justice of the peace, or clerk as aforesaid shall administer an oath or affirmation as to the truth of the deposition so taken; and shall certify the same deposition sealed and directed, shall within thirty days be forwarded by the said justices of the peace, or clerk as aforesaid to the clerk of the county court where the land or property is situated, or supposed to be situated that may be effected by the deposition. And the said clerk shall in his ex officio duty as recorder, record the same; and shall certify on the back of the deposition that the same has been duly recorded, and return it to the person or persons who first prayed for the same. The justices of the peace, and the clerk of the court shall receive such fees as are allowed to them for similar services.

To be recorded.

Fees.

Sec. 3. *Be it further enacted*, That a deposition or depositions taken in manner and form, and certified as in this act before mentioned, or duly certified copy of the record of any such deposition, may, in case of the death of such deponent, or in case of inability to give testimony, in consequence of his, her, or their insanity or imbecility of mind, or rendered incompetent by judgment of law, or in case of his, her or their removal, so that their testimony cannot be obtained in the ordinary way on trial, be used as evidence in any cause to which it may relate. *Provided*, That nothing in this act contained shall be so construed as to prevent any and all legal exceptions being made and allowed to the reading of such deposition or depositions, on any trial or trials at law or in equity, in which the same may be introduced as evidence.

Depositions to be read in evidence in case of the death or disability of the deponent.

Proviso.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives,
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 18, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Supplementary to an act concerning insolvent debtors.

Insolvents may petition two justices or a judge for a discharge.

BE *it enacted by the General Assembly of the Territory of Missouri,* That any person who is now or may hereafter be committed to prison, unless under criminal charge, shall be permitted to petition any two justices of the peace of the proper county, or either of the judges of the superior or circuit court to be liberated from imprisonment; and the said justices or judge shall in hearing and determining on said petition, be governed by the provisions of the above recited act, and agreeable to the provisions of an act supplementary to an act entitled an act concerning insolvent debtors. And all proceedings had before the said justices or judge shall be as valid in law as if the same were had before any judge of the court of common pleas, any thing in the above recited act to the contrary notwithstanding.

Plaintiff to pay a daily allowance for the maintain-

Sec. 2. *Be it further enacted,* That when any person is confined in any jail within this territory or within the prison-bounds thereof, and may be insolvent or unable to

maintain themselves the plaintiff at whose suit such person may be confined, shall pay for the maintainance of such prisoner, twenty five cents per day; to be paid to the sheriff or jailor to furnish such prisoner with provisions to the full amount thereof. And in case the said plantiff shall refuse by himself, agent or attorney, to pay the money as aforesaid, the sheriff or jailor may recover the same together with his costs before any justice of the peace within the county, in the same manner all debts are collected before a justice of the peace. *Provided however*, That the plaintiff shall always be entitled to recover from the insolvent debtor, on action of debt the full amount of such money he may have paid for his provision, out of any property that he may thereafter possess. And in all cases where any person is confined in jail upon any criminal charge whatever the proper county shall pay for the maintainance of the prisoner, unless the court before whom such criminal shall be tried may direct and order otherwise. And it is hereby declared the duty of the several county courts within this territory to see that all prisoners, civil and criminal are humanely treated.

ance of his prisoner.

To the sheriff or jailor.

And may recover.

Counties to maintain their criminal prisoners.

Courtycourts to see that prisoners are well treated.

Sec. 3. *And be it further enacted*, That so much of the fifth section of an act entitled an act concerning insolvent debtors, passed by the governor and judges of the territory of Louisiana, the sixteenth day of October, eighteen hundred and seven, as allows the wife of insolvent debtor her right of dower, be, and the same is hereby repealed.

Repeal of part of the former law.

Sec. 4. This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.

WM. NEELY,
President of the Legislative council.

APPROVED, JANUARY 20, 1815.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Allowing compensation to the members of the present General Assembly and the officers thereof.

Pay of the members.

For attendance.

For travelling

BE *it enacted by the General Assembly of the Territory of Missouri*, That each and every member of the legislative council and house of representatives attending the present general assembly shall be entitled to receive for each and every day's attendance on the business of legislation the sum of three dollars; and also shall be allowed three dollars for every thirty miles of the estimated distance by the most usual road, from his place of residence to the seat of government, for going to and returning from the same.

Pay of the officers.

Sec. 2. *And be it further enacted*, That there shall be paid to the clerk of the legislative council and the clerk of the house of representatives six dollars each for every day they may have been employed in the business of their respective houses, and to the engrossing clerk employed for the house of representatives three dollars for each day he has been employed in the business of the said house. And there shall

e allowed and paid to the door keeper of he legislative council and house of repre-entatives respectively the sum of two dol-rs for each and every days attendance du-ng the present session of the general as-embly.

Sec. 3. *And be it further enacted,* That he compensation which shall be due to he members of the legislative council and ouse of representatives, and their officers hall be certified by the president of the le-islative council and the speaker of the ouse of representative respectively: which ertificate shall be to the territorial auditor ufficient evidence of claim. And the au-itor shall thereupon issue his warrants or ertificates to the persons entitled thereto by his act payable at the territorial treasury, nd the auditor of public accounts shall is-ue to any person having a demand on the erritorial treasury, a certificate or certificates herefor to any amount not less than three ollars. And the said certificates shall be lawful tender to the sheriff for the pay-ent of territorial tax or monies due the ter-itory; nor shall any certificate issue for a-y other sum than three, five, ten, fifteen, nd twenty dollars and so on progressively y tens till it amounts to the demand of such erson. *Provided however,* That if there hould be a fraction of a demand less than hree dollars it may be included in the ast certificate so issued in favor of such per-on.

Compensation to be certified by the president and speaker of the two houses respectively.

Auditors to issue warrants.

Regulation of auditors certificates.

Proviso.

This act to take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 21, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Extending certain powers to the Trustees of the corporation of the town of St. Louis.

as follows:

The trustees may have a survey and plat of the town made.

BE *it enacted by the General Assembly of the Territory of Missouri*, That the trustees of the town of St. Louis be, and they are hereby authorised to have a survey and plat of said town made by the county surveyor, and to ascertain and fix the exact dimensions, metes and boundaries of each street and town lot, according to the right and title of each claimant or owner of said lot or lots having regard to all acts of congress on the subject, and also to a plat of said town deposited with or recorded in the recorder's office of this territory, so far as said plat may go, or have been made.

The lot of Auguste Chouteau to be the basis of the plat.

Sec. 2. ~~*And be it further enacted,*~~ That the lot or lots whereon Auguste Chouteau senr. now lives shall first be ascertained and fixed and the same shall then form the base or place of beginning for making out, ascertaining, and fixing the dimensions of each street and town lot within the plan or limits of said town. And the said surveyor shall make out three copies of said plat or survey and return the same to the board of trustees for the town of Saint Louis: one of which the said board of trustees shall lodge

Surveyor to make three copies,

or file with the clerk of the county court for the county of Saint Louis, and after the same shall be approved as herein after provided to be recorded by said clerk. And shall present another of the said plats to the general assembly which if approved and sanctioned by the said general assembly shall thereafter be considered as the plat of the town of St. Louis.

One to be lodged with the clerk of the county court.

And

One presented to the gen. Assembly.

Sec. 3. ~~*And it further enacted,*~~ That from and after the approval of said plat, as aforesaid, The board of trustees for the town of St. Louis may whenever they think proper proceed to give effect to such plat or survey, by removing or causing to be removed all obstructions in the streets or encroachments thereon, or upon any lot or lots owned by any private person as far as the same may be practicable. And if any person shall resist the authority of the trustees, exercised by them, or any officer by them appointed for the purpose of carrying into effect the provisions of this act, he, she, or they on conviction thereof before the chairman of the board shall forfeit and pay for the use of the town twenty dollars, and for every successive offence the sum of fifty dollars. And each and every resistance of the authority aforesaid for the purposes aforesaid shall form a distinct offence.

Trustees may remove obstructions in streets and encroachments either on them or the private lots.

Penalty for resisting the trustees.

Sec. 4. ~~*And be it further enacted,*~~ That the trustees of the town of St. Louis shall from and after the passage of this act be vested with full power to licence and regulate all ferries established within the limits of the same, and to apply the licence money arising therefrom to the use of said town. *Provided,* That said board of trustees shall not have power to revoke any

Trustees to license ferries

Not to revoke licenses granted by

the court of com. pleas.

ferry licence granted by the court of common pleas prior to this act.

Trustees may lay a tax.

Sec. 5. ~~*And be it further enacted,*~~ That the said board of trustees shall have power to levy and collect a tax on said town for paying the expence of making said plat or survey. *Provided*, they shall not have sufficient funds in their hands or subject to their disposition for said purpose.

Proviso.

Lots to be numbered.

Sec. 6. ~~*And be it further enacted,*~~ That the lots shall be numbered progressively, beginning with the lot or lots of Auguste Chouteau senr. and the numbers marked or written on each lot in the plan.

Trustees to name the streets.

The said trustees shall also have power to give permanent names to each and every street within said town. And for this purpose they shall have power to alter or change the name of any street that may now be named; which name shall also be written on the space or spaces left in said plan as streets.

Repealing clause.

Sec. 7. ~~*And be it further enacted,*~~ That all such part or parts of any law of this territory as may be inconsistent with the provisions of this act be, and the same are hereby repealed.

This act shall take effect and be in force from and after the passage thereof.

~~JAMES CALDWELL,~~
~~*Speaker of the House of Representatives.*~~

~~WM. NEELY,~~
~~*President of the Legislative Council.*~~

APPROVED JANUARY 21, 1815.

~~WILLIAM CLARK,~~
~~*Governor of Missouri Territory.*~~

AN ACT

Authorising the judges of the circuit courts and the clerks of the superior and said circuit courts to order bail to be taken in certain cases.

BE it enacted by the *General Assembly of the Territory of Missouri*, That the circuit judges and several clerks of the superior and circuit courts in this territory be and they are hereby invested with all the powers heretofore given by an act entitled "an act establishing courts of justice, and regulating judicial proceedings" passed by the governor and judges of the late territory of Louisiana the third day of July eighteen hundred and seven, to the judges of the courts of common pleas established by that act, so far as relates to taking affidavits and making orders thereon for the purpose of holding to bail. Which orders for holding to bail, when made by the clerk of the court shall be subject to the revision of the said superior or circuit courts in term time, and to be by them set aside if deemed unjust or improper.

This act shall take effect and be in force from and after the fifteenth day of February next.

JAMES CALDWELL,
Speaker of the House of Representatives.

WM. NEELY,
President of the Legislative Council.

APPROVED, JANUARY 21, 1815.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Making appropriations for the year one thousand eight hundred and fifteen and part of the year one thousand eight hundred and fourteen.

Appropriations for 1815, and part of 1814.

BE *it enacted by the General Assembly of the Territory of Missouri*, That there shall be paid out of the territorial treasury on the order or warrant of the territorial auditor to discharge debts due from the territory, and expenditures of said territory for the year one thousand eight hundred and fifteen and part of the year one thousand eight hundred and fourteen not more than the following sums to wit: To the members of the legislative council and house of representatives and their officers a sum not exceeding six thousand dollars.

Members of the gen Assembly & its officers.

Sec. 2. *Be it further enacted*, That there shall be paid to Charles Sanguinette for the two rooms furnished the legislative council and house of representatives the sum of one hundred and forty dollars.

To Charles Sanguinette.

To Thomas F. Riddick for stationary furnished the present general assembly the sum of seventyfive dollars.

T. F. Riddick

To William Sullivan for firewood and other articles furnished the house of representatives the sum of seventy eight dollars twentyfive cents.

Wm. Sullivan

To George Ferguson for furnishing firewood to the legislative council the sum of sixty dollars.

Geo. Ferguson,

To William Sullivan for copying the journals of the house of representatives the sum of fortyeight dollars.

Wm. Sullivan

Sec. 3. *Be it further enacted*, That a sum not exceeding three thousand dollars is hereby appropriated for the payment of

Circuit judges and other territorial officers.

the circuit judges, the territorial treasurer and auditor and adjutant general, and brigade inspectors for the year one thousand eight hundred and fifteen.

Joseph Charless.

Sec. 4. *Be it further enacted*, That there shall be paid to Joseph Charless for printing the laws passed at the present session of the general assembly, and other printing a sum not exceeding four hundred dollars. And in all cases when it is necessary or shall be made the duty of the governor to distribute the laws of the present session of the general assembly, or for causing to be published and distributed the militia law of this territory, it shall be lawful for the said governor to draw his order on the territorial auditor who shall issue his certificate accordingly for the amount necessary therefor.

Governor to draw upon the auditor.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,

Speaker of the House of Representatives.

WM. NEELY,

President of the Legislative Council.

APPROVED, JANUARY 21, 1815.

WILLIAM CLARK,

Governor of Missouri Territory.

AN ACT

Supplementary to an act entitled an act for levying and collecting a territorial tax in the county of St. Louis, for the year 1814.

BE *it enacted by the General Assembly of the Territory of Missouri*, That the county court for the county of St. Louis is hereby authorised to hold a special session for the purpose of receiving the list of assessment, made out by the assessors, and to hear and decide appeals from the assessment of any assessors; and to grant an order annexed to the list of assessment to the sheriff, for the collection of the said territorial tax, and generally to do and perform all other acts and things which may be necessary for giving full effect to the act to which this act is a supplement.

Sec. 2. *And be it further enacted*, That the county court shall also allow a compensation to said assessors of two dollars per day for each day they will state on oath they may have been employed in the business of his appointment, to be paid out of the treasury of the county of St. Louis, on an order of said court.

This act shall take effect and be in force from and after the fifteenth day of February next,

JAMES CALDWELL,
Speaker of the House of Representatives.

WM. NEELY,
President of the Legislative Council.

APPROVED, JANUARY 21, 1815.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Fixing the time of holding the General Court in the county of Arkansas and for other purposes.

BE *it enacted by the General Assembly of the Territory of Missouri,* That after the taking effect of this act the General court in the county of Arkansas shall be holden on the first monday in May and October annually in lieu of the times now established; and that the said general court shall possess the same jurisdiction in intestate and testamentary matters as are or shall hereafter be possessed by the circuit court of this territory, And that the said general court shall have jurisdiction of all county business in said county, and hold special sessions when necessary for such purposes; in as full and ample a manner as is or may be exercised by the several county courts in this territory.

Times of holding the gen. court

Jurisdiction in certain cases

Special sessions.

This act to take effect so far as it respects intestate testamentary and county business from and after the passage thereof. And so far as it respects the times of holding the said general court from and after the fifteenth day of May next.

When in force.

JAMES CALDWELL,
Speaker of the House of Representatives.

WM. NEELY,
President of the Legislative council.

APPROVED, JANUARY 21, 1815.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

To repeal the proviso in the fifteenth section of the act, defining the powers and duties of justices of the peace in matters of a civil nature.

BE *it enacted by the General Assembly of the Territory of Missouri*, That from and after the first day of March next the proviso contained in the fifteenth section of an act entitled an act defining the powers and duties of justices of the peace in matters of a civil nature, shall be and the same is hereby repealed. And where the judgment is ten dollars and under the stay of execution shall be one month under the same restrictions and regulations that are provided respecting stay of execution in the thirteenth section of the above recited act.

JAMES CALDWELL,
Speaker of the House of Representatives.

WM. NEELY,
President of the Legislative Council.

APPROVED, JANUARY 21, 1815.

WILLIAM CLARK.
Governor of Missouri Territory.

AN ACT

Providing for levying and collecting territorial and county taxes.

BE *it enacted by the General Assembly of the territory of Missouri*, That there shall be levied and collected as a territorial tax, on all lands within this territory claimed as a complete title, and on all lands confirmed or granted by the board of commissioners or the recorder of land titles of this territory, and on all lands claimed or confirmed by any act of congress, a tax of sixty cents for every hundred arpens, and so in proportion for a greater or less quantity.

60 cents tax on each 100 arpens of confirmed lands.

Sec. 2. *Be it further enacted*, That there shall be levied and collected on all pre emption rights, and on all lands claimed by virtue of any concession granted by any officer under the Spanish government and which does not come when the meaning of the foregoing section of this act, a tax of twelve and a half cents for every hundred arpens, and so in proportion for a greater or less quantity: *Provided*, That such claimants' personal property shall not be liable for the payment of such tax on unconfirmed land, but only the land itself and it is hereby declared that there shall be a perpetual lien on all lands made taxable by this act for the payment of taxes or arrearages of taxes which is or may hereafter become due thereon.

12½ cents for each 100 arpens of other lands.

Personal property not liable.

Sec. 3. *Be it further enacted*, That all town lots within this territory together with the houses and improvements thereon, and all lots attached to said towns and within the limits of the same, together with the improvements, if any there be, and also on all

30 cents tax on town lots and improvements, and on houses in the country, for each $100.

dwelling houses in the country shall be fairly and impartially assessed and valued by the proper assessor of the township (or county) within which the same may be situated at whatever sum the said assessor shall believe the said lots with its improvements thereon, and houses in the country are worth in ready money, and there shall be levied and collected, annually on said assessment or valuation thirty cents for every hundred dollars thereof, and so in proportion for a greater or less sum.

62½ cents tax on each slave above ten years.

Sec. 4. *Be it further enacted*, That there shall be levied and collected for every slave owned or possessed by any person residing in this territory above the age of ten years, except such as the county court shall exempt for sickness or disability, a tax of sixtytwo and a half cents annually. And there shall be levied and collected in like manner for every wheel carriage kept for pleasure, the sum of one dollar and fifty cents for every hundred dollars according to its valuation.

150 cents tax on each $100 value of pleasure carriages

15 dollars each 6 months tax on retailers.

Sec. 5. *Be it further enacted*, That the tax on stores, and on each and every stand used or occupied for selling or retailing merchandize in this territory shall be fifteen dollars for every six months to be paid to the sheriff of the county where the person shall obtain a licence to sell or retail merchandise as aforesaid. And it shall be the duty of the several sheriffs, of this territory to grant to every person applying for the same a licence to sell or retail merchandize upon such applicants paying the tax as aforesaid. And it shall be the duty of the clerks of the county courts respectively, to issue at each term, as many blank licences,

under the seal of the county court if there be one as the court may think fit, which licences shall be in the following form to wit. "Territory of Missouri, the day in the year one thousand eight hundred and this certifies that A. B. is authorised to sell merchandize within this territory for six months from the date hereof, the said having this day paid to me sheriff of the county of the sum of fifteen dollars it being the semi annual tax imposed on the retailers of merchandize by a law of this territory, C. D. clerk of the county court of county. And any person obtaining a certificate as aforesaid shall be authorised to sell for six months after from the date thereof and no longer. And if any person or persons shall by himself, herself or themselves, or by agent sell any kind of merchandize within this territory or on any of the waters thereof, not the growth or manufactory of this territory not having obtained such certificate as aforesaid, he, she or they so offending shall for every such offence forfeit and pay a sum not exceeding thirty dollars, to and for the use of the territory, to be recovered before any justice of the peace of the proper county at the suit of the sheriff whose duty it is hereby made to prosecute therefor in his own name as sheriff. And the county court shall charge the sheriff with the amount of such blank licences to him delivered at each term in a book to be kept by the clerk of said court for that purpose, and at each and every subsequent term the said court shall settle with the sheriff for the licences to him delivered at the preceding term, and shall give him a credit for all blank licences by him to them returned, and he shall stand chargeable with

Licenses.

Penalties.

Sheriff charged with blank licenses.

the amount of all blank licences he shall not return. And it shall be the duty of the county court to cause their clerk to certify the amount with which the sheriff stands charged as aforesaid, as soon as may be, to the territorial auditor who shall charge such sheriff with such amount.

Account.

Licenses for Indian trade.

Sec. 6. *Be it further enacted*, That every person who shall apply to the governor of this territory for a licence to trade with any indians in this territory or on the waters bordering on the same shall file with the clerk of this county court, on oath a copy of his invoice of equipment, and any person who shall on oath falsely make his statement of the amount of his equipment shall be subject to the same prosecution and penalties as persons guilty of perjury, of which copy being filed and of the amount thereof the clerk shall give such person a certificate under the seal of the court if there be one, and the person so obtaining such certificate shall take it to the sheriff of the proper county and file it with him, and such person so filing such certificate as aforesaid shall pay as a territorial tax one and a half per centum on the whole amount of his invoice of equipment which it shall be his duty to pay to the sheriff, and the sheriff is hereby authorised to receive and receipt for the same. And upon such persons producing such receipt of the sheriff to the governor, it shall be lawful for the governor to grant such person the licence he may require, and it is hereby made the duty of the clerk to forward to the territorial auditor a list of such invoice as filed in his office and the amount thereof when he forwards his other statement by law directed to be kept by the auditor as evidence against such sheriff. And

1½ per cent tax.

Clk. to send lists to auditor

the sheriffs shall pay over all the monies so received in the same manner as other monies by him collected as a territorial tax, and be allowed the same per centum thereon

Sec. 7. *Be it further enacted*, That there shall be levied and collected as a territorial tax on each practising attorney at law the sum of ten dollars; on each practising physician the sum of ten dollars: The several courts of record in this territory shall cause a roll to be made out and kept by their clerk on which the name of every practising attorney in such court shall be entered, and at the time the name is entered on the roll (which the court shall cause to be done as early after the passage of this act as possible) each attorney or counsellor at law shall pay to the clerk the tax by law imposed on him. It shall furthermore be the duty of the several county courts in this territory to cause to be made another roll or list on which the names of each and every practising physician shall be entered, and shall cause the clerk to make out a certificate with the seal of the court (if there be one) annexed thereto in favor of such physician, which shall enable him to practise physic in this territory for one year. And each and every year lawyers and physicians shall pay the tax by law imposed on them to be applied as is by law directed.

Lawyers and Physicians' 10 dolls. each.

Rolls of atty's.

Rolls of physicians.

Sec. 8. *Be it further enacted*, That there shall be paid on each and every original writ and execution issued out of any court of record in this territory a tax of one dollar to be paid to the clerk before issuing such writ or execution to be taxed as other costs are. And there shall also be paid on every conviction by virdict or confession in criminal cases (except those that are capital)

1 dollars tax on writs and executions.

50 cents tax on seals, deeds and mortgages.

a tax of one dollar to be collected by the sheriff as other monies on execution, except where the defendant proves insolvent. And there shall also be paid on each certificate of the clerk of the county court with the seal of the county annexed thereto (if there be one) and also on each deed or mortgage recorded by said clerk, a tax of fifty cents to be paid down. *Provided*, That there shall be no tax paid on certificates issued to venders of merchandize.

Clerks to render accounts of taxes received by them.

Sec. 9. *Be it further enacted*, That the clerks of the several courts of record within this territory shall, on the first mondays in March and September annually, pay over to the respective sheriffs all monies received, or which ought to have been received by them for tax on writs and executions as well as the tax on county seals (if there be one) deeds, mortgages and other instruments of writing on which a tax is to be paid and all other monies by them received for the use of the territory, and take the sheriffs receipt therefor. And the said clerks shall respectively at the same time make a statement of all writs and executions by them issued, and of all convictions in criminal cases (except those that are capital) and of all deeds, mortgages and other writings, and the amount of tax on county seals (if there be one) in pursuance of this act, and also, of all fines imposed and monies received or which ought to have been received for fines, tavern and ferry licences within the last six months preceding the time of making such statement, together with a copy of the receipt taken by the clerk or the sheriff as aforesaid, which statement and copy of receipt the clerk shall forthwith, transmit to

And make a statement to the Auditor.

To be charged to sheriff.

the territorial auditor who shall thereupon charge the amount of such statement and copy of receipt to such sheriff. And the several sheriffs within this territory shall on the first mondays in June and December annually pay into the territorial treasury all monies by them received or which they ought to have received for licenses for selling and retailing merchandize, tavern and ferry licences, fines, tax on writs, executions, convictions, county seals (if there be one) deeds, mortgages and other instruments of writing.

Sheriff to pay over.

Sec. 10. *And be it further enacted*, That there shall be levied and collected as a county tax, in each and every county within this territory, on each horse, mare, mule or ass, above three years old a sum not exceeding twenty five cents; on all neat cattle above three years old, a sum not exceeding six and a fourth cents; for each and every stud horse the sum for which he stands the season; on every negro or mulatto slave between the ages of sixteen and forty five years a sum not exceeding fifty cents; for each billiard-table the sum of twenty five dollars; and on every able bodied single man of twenty one years old or upwards, not being possessed of property of the value of two hundred dollars, a sum not exceeding fifty cents, and on water grist mills, and saw mills, horse mills, tan yards and distilleries in actual operation a sum not exceeding forty cents on every hundred dollars of their valuation.

County taxes.

Sec. 11. *Be it further enacted*, That the county courts within their respective counties in this territory, shall, at their first term to be holden after the taking effect of this act

Assessors appointed by county courts.

notify one of the senior justices of each township of the county that he is to act as assessor in the township of which he is a justice of the peace, for one year, which, if any justice thus notified shall neglect or refuse to do, the said county court may hold a special session for the purpose of appointing some other justice of the peace or other person in place of those who may so refuse or neglect. And if any person shall refuse or neglect to act according to such appointment he shall be fined by said court in any sum not exceeding fifty dollars. And each and every assessor before he enters on the duties of his office shall take the following oath or affirmation. I, A. B. do solemnly swear (or affirm as the case may be) that I will diligently, faithfully and impartially to the best of my abilities and judgment perform the duties of assessor enjoined on me by law, for the township of in the county of which oath or affirmation may be made before any judge or justice within such county.

Fine for refusal to act.

Oath.

Sec. 12. *Be it further enacted*, That it shall be the duty of every person within this territory to give unto some one of the assessors of the county where such person resides on oath or affirmation according to the best of his, her or their knowledge a just, true and faithful list of the property made taxable by this act which he may have owned or possessed on the first day of April every year, which oath or affirmation the assessors are hereby authorised to administer. And every person entering lands with the assessor for taxation, shall particularly state where such land is situated, in what county, on what water course, the quantity of arpens, by what title claimed, and by

Person chargable with taxes to give lists to assessors in oath.

whom originally owned (if he knows it) and it shall be the duty of the assessor to insert the same in his list accordingly. And in case any person shall wilfully neglect or refuse to give such list as aforesaid, or shall give in a fradulent list, it shall be the duty of the assessor to list and enter the same upon his own knowledge thereof or upon the best information he can procure, and the land or other property so listed by the assessor himself shall be taxed double, which it shall be the duty of the assessor to specify in his general list. And it shall be thereupon the duty of the sheriff to collect and pay over the same according to the provisions of this act. *Provided*, That the sheriff shall be bound to receive territorial auditors certificates at their full value in payment for territorial tax.

On neglect the assessor may list the property.

Double tax.

Sheriff's duties.

Sec. 13. *And be it further enacted*, That it shall be the duty of each assessor to proceed to list and assess all persons and property within his township made taxable by this act and make return thereof to the clerk of the county court within forty days after receiving such list, and the county courts shall at their next session to be holden after the assessor shall make return as aforesaid, provided it be within thirty days, hear and determine all appeals from such persons as may think themselves aggrieved by the assessment of the assessors. And in case the regular term of said court should not be within thirty days after such returns, then the said court shall hold a special session for the purpose of hearing appeals: *Provided*, the justices or any two of them shall cause their clerk to give ten days notice by advertisement in two public places in each township stating the time such special ses-

Assessors to make return to clerks of county court.

County courts to hear appeals.

And.

Correct the lists.

sion of the court will be held. And so soon as they may have heard and determined all appeals and corrected the lists of the assessors they shall cause their clerk to

Clerk's duties.

make out three copies of the whole lists of taxable property in said counties in alphabetical order, one of which shall be delivered to the sheriff within ten days after making out the same, who shall, at the time of receiving the same acknowledge the receipt thereof on the other two in writing endorsed

Sheriff's duties.

on the same, one of which shall be forthwith transmitted to the territorial auditor, and the other shall remain in the office of the clerk of the county court. The asses-

Pay of assessors and clerk of county courts.

sors shall receive each per day the sum of two dollars to be allowed by the county court on the oath of such assessor, to be paid out of the county treasury. And the clerks of the county court shall respectively receive for the services required to be performed by them under this act, annually, such sum as the county courts may think proper to be allowed to be paid out of the county treasury.

Sec. 14. *Be it further enacted*, That the

Sheriff's bond for county tax.

sheriffs of the respective counties within this territory shall annually, previously to entering on the collection of the taxes levied for county purposes enter into a bond with two or more securities in a sum at least double the amount of the assessors list to the governor and his successors in office, conditioned that he will faithfully collect and pay out according to law, all monies to

For territorial taxes.

be by him collected by this act for county purposes, which bond shall be recorded and filed with the clerk of the county court. And the said sheriff shall, before he enters upon the collection of taxes to be by him collected for territorial purposes enter into

bond with two or more securities in a sum at least double the amount of the assessors' list to be approved by the court, made to the governor and his successors in office, conditioned that he will, according to law, collect and pay over into the territorial treasury all taxes and other monies made collectable by him, by this act at the times therein required, which said bond shall be filed in the office of the governor.

Sheriff to distrain.

Sec. 15. *Be it further enacted*, That if any person charged with territorial or county taxes by virtue of this act, shall neglect or refuse to pay the same to the sheriff when demanded the sheriff or his deputy shall have power to distrain the property of such delinquent (except for tax on unconfirmed land and pre-emption rights in which cases the land itself or claim thereto shall only be distrainable) and after giving ten days previous notice shall proceed to sell the same to the highest bidder: *Provided always*, That the delinquent may at any time before the property destrained is sold demand and receive the same on tendering the amount of tax due, and the expence of keeping the same, the overplus of every sale made for the non payment of taxes shall be paid by the sheriff to the owner after deducting his fees and expences. And it shall be the duty of the sheriff to give to each person a receipt at the time of receiving any territorial or county tax specifying the amount of the money received and for what tax. And any sheriff neglecting or refusing to give such receipt, or who shall knowingly demand and receive of any person, any greater sum than is contained in said sheriffs tax list against such person, every such sheriff offending shall forfeit

Nothing but the land in unconfirmed cases.

Sheriff to give receipts for tax.

Penalty for not doing so, or for receiving too much.

and pay the sum of twenty dollars to the party injured to be recovered by action of debt before any justice of the peace of the proper county.

County courts to audit the accounts of individuals against the county.

Sec. 16. *Be it further enacted*, That it shall be the duty of the county courts respectively to audit, adjust and ascertain the amount due from the county to any individual and having ascertained the same according to law shall order the sheriff to pay the same. On which order being made the clerk of the county court shall issue a certificate for the amount thereof in the following form viz. 'I do certify that the sum of is due to by the county of for value received. And the sheriff of the said county is hereby directed to pay the said or bearer on demand the said sum of ' which certificate shall be signed and attested by the said clerk, and the same is hereby declared to be a lawful tender for county taxes.

Certificate.

Sheriff's to settle with county courts.

Sec. 17. *Be it further enacted*, That the sheriffs of the respective counties within this territory shall settle with the county court of their proper county at every regular term, and all certificates by them taken up as county treasurer shall be entered as a credit in their favour by the county court in a book to be by them kept for that purpose in which shall be entered the date, number and amount of such certificate. And if any sheriff shall neglect or refuse to settle with the county court as aforesaid, he shall, for every such neglect or refusal forfeit and pay for the use of the county for which he is sheriff one hundred dollars to be recovered in the circuit court, in the name of the justices of the county court on

Penalty for neglect.

motion of the circuit or prosecuting attorney, the said sheriff having had ten days previous notice, and for which sum and costs execution shall issue as in other cases. And if on any settlement or adjustment of the accounts of any sheriff had before the the county court of the county of which he is sheriff it shall appear that there is a balance of the county taxes in his hands, it shall be the duty of such county court to enter up a judgment or judgments against such sheriff to the amount of such balance in favor of the person or persons who may present to them a certificate or certificates signed by the late auditors of districts or counties, or by the clerks of the late courts of common pleas or in virtue of the sixteenth section of this act authorising the payment from the county treasury giving preference to the date of the certificates presented at the same time. *Provided*, That no judgment shall be entered up against any sheriff by virtue of this section unless it shall appear to the court that the sheriff has refused to pay the amount of the certificate or certificates on which judgment may be entered, *And provided also*, That ten days previous notice shall be given to the sheriff of such intended motion. And it shall be the duty of the clerk to write on each certificate that the same is satisfied, under which each justice then present shall subscribe his name: *Provided*, That the county courts shall receive a sufficient excuse from the sheriff for the amount of taxes due from persons who may remove from the county or who may prove insolvent, upon the sheriff's making oath that he has used due exertion to obtain the same or to the fact of insolvency or removal, whereupon it shall be

Judgments against him in favor of county courts.

Entry of satisfaction.

Removals and insolvencies.

the duty of the county courts to give such sheriff a credit to the amount thereof. And it shall be the duty of the county courts to cause their clerk to make out certified copies under the seal of the court (if there be one) and transmit the same to the sheriffs of the counties where such delinquents may have removed, and it shall be the duty of said sheriffs to collect the several amounts so certified and transmit the same to the sheriff of the county from whence such certificate issued under the same provisions and directions that they are bound to collect and pay over other monies collected for taxes, and shall receive the same per centum for the same.

Non residents lands to be re-entered with the auditor.

Sec. 18. *Be it further enacted*, That all lands hereby made taxable and owned or claimed by non residents shall be entered or listed by such non resident, his, her, or their agent with the auditor of public accounts for this territory on or before the first day of July next. And the auditor shall keep a book in which he shall carefully enter each and every tract or claim of land hereby made taxable, and owned or claimed by non residents, stating the nature of the claim, the quantity of land, the county and water course where the same is situated. And it shall be the duty of the auditor in all cases where the lands are owned or claimed by non residents hereby made taxable, and not listed or entered with him for taxation as aforesaid, to list and enter the same himself from the best information he can procure, which it is hereby made his duty as far as practicable to acquire. And the said auditor shall, on or before the first day of August in every year forward to the

Auditors to list lands in certain cases.

And to deliver to the clerk of the [illegible]

ritory a list of the lands owned or claimed by non residents situated in his county, whereupon the sheriff or collector shall be bound to receipt therefor to the auditor and proceed to the collection of the tax due on all lands contained in said list and pay the same over in the manner and at the time and under the same regulations and penalties as are provided by this act.

sheriff's duties.

Sec. 19. *Be it further enacted*, That where any tract or parcel of land owned or claimed by any non resident and listed with the auditor shall be sold or tranferred it shall be the duty of the purchaser if he be a non resident to file with said auditor on or before the day that he makes his annual list to forward to the different sheriffs as aforsaid a duly certified copy of his or her deed or transfer, whereupon the auditor shall enter or list the same for taxation in the name of the purchaser. And no sale, change or transfer of any tract of land contained in the auditors list shall in any manner affect or prevent the collection of taxes due thereon at the time of such sale, change or transfer. And in all cases where the sheriff cannot find sufficient personal property whereon to levy and make distress for the payment of taxes according to the provisions of this act, it shall and may be lawful for the sheriff to sell at the court-house door of the county by public sale on the first monday in November annually, so much of each tract of land chargeable for taxes, as will be sufficient to pay the amount of taxes due thereon. And the said sheriff shall previous to such sale give notice thereof at least sixty days by advertisement in some newspaper printed in this territory, or in case there be none printed in this territory

Purchasers of non residents.

In default of personal property how lands are to be sold.

Sixty days notice.

then in some newspaper, printed in the next adjoining territory or state, and by advertising at the court-house-door the time and place of sale, particularly describing the land and the different tracts to be sold. And the sheriff shall deliver to the purchaser a certificate of the quantity of land sold, describing therein the tract which was chargeable with the taxes. And the part so sold shall be taken as near as may be in a square, and shall adjoin one or other of the out lines or corners of the survey of such tract of land so as not to include an improvement, if to be avoided. And a designation of the parts so sold shall be made by the sheriff at the time of such sale. And in cases where the claim or part of a claim of land sold for taxes under this act shall not have been surveyed by the proper authority of the United States, or shall be so uncertain as to locality or identity that the county surveyor cannot ascertain the boundaries of the claim, the purchaser shall be entitled as near as possible to the part designated by the sheriffs advertisement for the sale of such land and the land to be so laid off as soon as the claim itself shall be indentified.

Sheriff's certificate of sale.

How to be laid out.

No survey.

Uncertain locality, &c.

Sec. 20. *And be it further enacted*, That when any tract of land offered for sale for the payment of taxes shall not be sold for the want of bidders, and the said taxes thereon not being paid it shall be the duty of the sheriff to forward to the auditor a list of such lands not sold as aforesaid, on oath at the time when he pays over monies or taxes on land by this act made payable into the territorial treasury, for the amount of which said list, the auditor shall give said sheriff credit in the settlement of his account.

Lands not sold for want of bidders.

Returned to auditor.

And it shall be the duty of the territorial auditor annually to issue an order to the sheriff of the proper county to proceed to sell such lands as have not been sold for want of bidders or such part thereof as will pay the arrearages of taxes due thereon. And it shall be the duty of the sheriff at all times when he collects the taxes of the present year to collect all arrearages of taxes due as aforesaid, for which he shall receive the auditors order. And no sheriff shall either directly or indirectly be concerned or interested in the purchase of any tract of land sold for the payment of taxes under the penalty of five hundred dollars, to be recovered by indictment or information, the sale and purchase in such case is hereby also declared to be utterly null and void.

To be offered again the ensuing year.

Sheriffs not to be concerned in purchases at sales for taxes.

Sec. 21. *Be it further enacted*, That it shall be the duty of each and every sheriff within this territory on or before the first monday of December in every year to pay into the territorial treasury all monies charged on the tax list, and lists of non residents' lands put into their hands for collection; first deducting the tax on lands not sold for want of bidders and delinquents allowed by the court together with eight per cent on all monies by them paid into the territorial treasury. And the said sheriffs shall collect the amount of county taxes put into their hands for collection, and be liable to pay the same to the orders of the county court from and after the first monday of October in each and every year. The sheriffs shall be respectively entitled to receive eight per centum on all county taxes by them collected and paid out, and if any sheriff shall fail or neglect to pay into the territorial treasury the amount with which

Sheriff to pay over monies on or before 1st monday of December annually for territory.

Sheriffs per cent.

October for county.

Sheriffs per cent.

he stands charged at the time by this act required, such delinquent sheriff shall be charged by the auditor with the sum of twenty per centum on the amount then due from such delinquent sheriff. And the auditor shall immediately forward to the circuit or prosecuting attorney of the circuit or county in which such delinquent sheriff resides, a statement of the balance due from such delinquent sheriff and it shall be the duty of such circuit or prosecuting attorney to proceed against such delinquent sheriff and his securities for the said amount and recover judgment for the same before the superior or circuit court on giving the said sheriff and his securities ten days notice.

Penalty on and prosecution of the sheriff.

Surveyor of county to lay off lands sold, on sheriffs certificate.

Sec. 22. *Be it further enacted*, That the surveyor of the county on the receipt of the sheriffs certificate of lands sold for taxes shall by himself or deputy proceed to survey and lay off the quantity of land agreeable to said certificate, and charge the expence of making a survey and plat thereof to the purchaser or his or her heirs or assigns. And on the plat and certificate of survey being presented to the sheriff or his successor in office it shall be his duty to convey the same to such purchaser or his heirs or assigns by deed in due form of law executed, which survey and deed shall vest in the purchaser or his or her heirs or assigns all the right title, claim and interest to said land (the right of the United States only excepted) to the part so sold. But the said sheriff may nevertheless convey any lot or tract of land sold for taxes without having the same surveyed when the whole tract or lot is sold: *Provided*, That if any person or persons, his, her or

Sheriff to give deed.

Redemption conditions.

their lawful agent or attorney shall within twelve months from and after the day of such sale pay or tender to the said purchaser, his, her or their legal heirs or representatives or lawful agent or attorney the amount of such tax, together with the costs of sale and survey and one hundred per cent interest per annum on the same and likewise pay to the purchaser for all improvements that are made by said purchaser on said land at their just and real value his, her or their lands shall therefrom be discharged and redeemed from such sale: *Provided however*, That nothing herein contained shall be considered in law as a bar to the right or equity of redemption which any infant, person of unsound mind, in captivity or beyond the limits of the United States, or in the military service of the United States may have in the land so sold: *And provided also*, That the tax on said land together with the interest thereon and an equitable compensation for improvements made on said land be tendered to the purchaser or his assigns within one year after such disabilities be removed.

Infants, persons non compos, &c.

Sec. 23. *Be it further enacted*, That it shall be the duty of the clerks of the county courts respectively, annually, in the month of November to make out a fair and perfect statement in detail under his hand and the seal of the court, if there be one, of receipts and expenditures of their respective counties, and cause the same to be published in the most public news paper printed in this territory. And it shall be the duty of the court to allow said clerk the actual expense by him expended for publishing the same, out of the county treasury. And it shall also be the duty of the several sheriffs of the

Clerks of C. courts to make statement of receipts and expenditures.

Sheriffs to make state-

ments of delinquents

respective counties annually to make out and publish in like manner a true statement of all delinquents in their respective counties. And the territorial auditor shall also

Auditors statement of receipts and expenditures.

make out and publish a true statement in like manner of all receipts and expenditures of the territory, annually, to whom paid and under the provisions of what law, in the month of December, and shall be allowed for his actual expence in publishing the same out of the territorial treasury. And the said auditor shall lay such statement before the general assembly as soon as may be, after its convention in each year. And

Penalties.

any clerk, sheriff or the territorial auditor failing or neglecting to make out and publish such statement as aforesaid shall forfeit and pay a sum not exceeding three hundred dollars to be recovered upon motion of the circuit or prosecuting attorney in any court of record having competent jurisdiction upon such delinquents having ten days notice thereof.

Sec. 24. *And be it further enacted*, That an act passed by the governor and judges

Former acts repealed.

of the territory of Louisiana entitled 'an act regulating the fiscal concerns of the territory, defining the duties of certain officers concerned therein and for other purposes' except so much thereof as relates to the duties of the territorial treasurer, be, and the same is hereby repealed. And that 'an act supplementary to the several acts regulating the fiscal concerns of this territory' except so much thereof as provides that there shall be a perpetual lien on all lands for the payment of taxes and all other laws and parts of laws coming within the purview of this act be, and the same are hereby repealed.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 21, 1815.
WILLIAM CLARK.
Governor of Missouri Territory.

AN ACT

Repealing a part of the second section of the act, entitled an act, providing for the levying and collecting the territorial and county taxes.

BE it enacted by the *General Assembly of the Territory of Missouri*, That so much of the second section of said act as provides that there shall be a tax on pre-emption rights to lands, and all other parts of the said act relating to pre-emption rights to lands shall be and the same are hereby repealed.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives,
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 21, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Explanatory of part of an act entitled 'an act providing for the levying and collecting the territorial and county taxes.'

WHEREAS doubts may arise as to the construction of some part of the seventh section of the act of which this act is explanatory, therefore

BE *it enacted by the General Assembly of the Territory of Missouri*, That nothing in the said seventh section of the said act shall be so construed or understood as to require any practising attorney at law in this territory to pay a territorial tax as such in more than one county in this territory.

Attorneys to be taxed in one county only.

This act to take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.

APPROVED, JANUARY 21, 1815.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Directing the probate of wills and the descent of intestates, real estates, and the distribution of their personal estates, and for other purposes therein mentioned.

BE *it enacted by the General Assembly of the Territory of Missouri*, That it shall be the duty of the circuit courts in the several counties in this territory, in term time, and of the clerk in vacation, subject to the confirmation or rejection of said court,

The circuit courts and their clerks in vacation to take probates

to take the proofs of last wills and testaments, and to grant letters testamentary and letters of administration with or without any last will annexed, and to do and perform every matter or thing enjoined on said court or clerk by law.

and grant letters testamentary or of administration.

Sec. 2. The said court on the granting letters of administration to any person or persons of the goods and chattels of persons dying intestate, shall take a bond with two or more sufficient sureties, respect being had to the value of the estate, in the name of the governor of the territory or his successors in office in the manner and form following to wit. The condition of this obligation is such, that if the within bounden A. B. administrator, or administratrix, as the case may be, of all and singular the goods, chattels, rights, and credits of C. D. deceased do make or cause to be made a true and perfect inventory of all and singular the goods, chattels, rights and credits of the said deceased which have or shall come to the hands, possession or knowledge of him the said A. B. or into the hands and possession of any other person or persons for him: and the same so made do exhibit or cause to be exhited into the office of the circuit court for the county of at or before the day of next ensuing, and the same goods, chattels, rights, and credits, and all other the goods, chattels rights, and credits of the said deceased, at the time of the death of the said deceased, which at any time after shall come to the hands or possession of the said A. B. or into the hands or possession of any other person or persons for him: do well and truly administer according to law; and further do make, or cause to be made a true

The court on granting administration shall take a bond

In the name of the governor.

Condition of the bond.

and just account of his said administration, at or before the day of and all the rest and residue of the said goods, chattels rights and credits, which shall be found remaining upon the said administrator's account the same being first examined and allowed by the circuit court for the county where the said administration is granted, and shall deliver and pay to such person or persons respectively as the said court by their decree and sentence, pursuant to the true intent and meaning of this act, shall appoint and direct. And if it shall hereafter appear that any last will and testament was made by the said deceased, and the executor or executors therein named, do exhibit the same into the office of the said court, making request to have it allowed and approved, and the said will is allowed and approved by said court then if the said A. B. within bounden, being thereto requested, do render and deliver his said letters of administration, then this obligation to be void and of no effect, otherwise to remain in full force and effect. And such person to whom administration is granted shall also take before the court an oath or affirmation that the said deceased died without any will as far as he knows or believes, and that he will well and truly administer all and singular the goods, and chattels rights and credits of the said deceased, and pay his debts as far as his goods, chattels rights and credits will extend and the law direct. And that he will make a true and perfect inventory of all the goods, chattels rights and credits as also a just account when thereto required.

Oath.

Bond to be sued on in the

Sec. 3. The bond to be given by the administrator in pursuance of this act may be

put in suit and prosecuted from time to time at the suit of the party injured, in the name of the governor of the territory to the use of the party injured for a breach of said bond or bonds until the whole damage thereon be recovered. name of the governor.

Sec. 4. All debts owing by any person at the time of his or her decease shall be paid by his or her executors or administrators reserving first to the widows in all cases under this act her right of dower as far as they have assets in the manner following to wit: first funeral expences, servants wages, physic and medical attendance during the last sickness of the deceased; and judgments that were obtained against the deceased in his life time, and rendered not more than one year before the death of the deceased, unless where executions have regularly been taken out and continued to the time of the death of the deceased. And all other debts shall be paid without regarding the quality of the same except debts due to the territory which shall be paid last. But if there shall not be assets enough to discharge the funeral expences, physician's bills, servants wages and judgments as aforesaid, then the assets shall be averages and paid prorata, except funeral expences which shall be paid in toto. But if there be any remaining assets after the payment of the debts as aforesaid and not enough to pay all the other debts of the deceased then the said debts shall be paid prorata, or an equal sum in the dollar as far as the assets will extend, without regarding the quality; for which purpose the executor or administrator shall or may apply to the circuit court of the proper county, which said court is hereby authorised

Manner of paying the debts of the deceased.

Debts to be prefered.

Other debts without regard to quality.

In case of a deficit debts to be paid prorata.

Auditors appointed by the court.

and empowered to appoint three judicious and competent persons as auditors to settle and adjust the proportions and rates of the remaining assets due and payable to the respective creditors; whose report thereon if approved by the court shall be confirmed and the executors and administrators shall pay the debts accordingly. *Provided however*, That no creditor who shall neglect to exhibit his account or demand to the executors or administrators within one year after public notice given in one or more of the public newspapers published in this territory, or if none published in this territory then in some newspaper printed in some of the neighboring states or territories for at least three weeks, shall be entitled to receive any dividend of such remaining assetts.

Proviso if the creditor neglect to present his account.

Executors or administrators before application for the appointment of auditors shall give notice.

Sec. 5. It shall be the duty of the executors or administrators when they represent any estate to the said court, as insolvent for adjustment of the rates and proportions of the respective creditors to give notice to the respective creditors at least two months before the time of applying to the court in some newspaper printed in this territory, and if none is printed in this territory then in some newspaper printed in some neighboring state or territory and to be continued for three weeks in the same, and also to put up at two of the most public places in the county notices notifying such creditors that application will be made to the court aforesaid at the next succeeding term to be holden for the county of on the day of in the year for the appointment of auditors to settle and adjust the remaining assetts of the deceased among the respective creditors; and if any

creditor shall fail to attend by himself or attorney at such time and place as such auditors or a majority of them may appoint having given one months notice in some newspaper printed in this territory, or by at least three advertsements set up at the most public places in the county; to prove his demand against the estate of the deceased, by legal proof such as would be required on a trial at law, such creditor shall not be entitled to any dividend.

Creditors not attending the auditors shall lose their dividend.

Sec. 6. It shall be the duty of the auditors on examining the demands against any estate presented to them for adjustment and apportionment, to allow none to have a dividend that are not proved to them as if the same were before them on a trial at law; and in all sums above twenty dollars, either the executors, administrators, or the creditors shall be entitled to a trial by jury if demanded upon the return of the report of the auditors to the circuit court, which jury shall be immediately summoned by the sheriff, if the court shall direct: and such trial shall be in a summary mode without the form of pleadings, And if either party after an entry of record of the court, of the fact asserted by one party and denied by the other shall wish for a continuance, it shall be lawful for the said court on satisfactory cause being shewn to continue said cause till another term, as in other cases; and the parties shall respectively have compulsory process to compel the attendance of witnesses which witnesses shall be entitled to the same fees as in other cases, and the parties respectively against whom any judgment is rendered by the said court on trial as aforesaid shall pay the costs of said trial, and when any executor or administrator shall present his ad-

Demands to be proven before the auditors as on trials at law.

Parties may have a jury on all sums over 20 dollars.

And.

A summary trial.

The court may grant a continuance.

Witnesses in other cases.

Costs.

On suggestion (by a creditor) of waste the court shall direct an issue to be made upon that point.

ministration of any estate of any deceased person to the said court as insolvent, and for adjustment and apportionment of the remaining assetts among the respective creditors, if any creditor will suggest that such executor or administrator has not made a just and true account of the remaining assetts in his hands, and shall moreover require that there be an inquiry into the same it shall be the duty of said court to direct an issue of fact, waste or non waste to be immediately made, and to be tried as is directed by this section, with regard to demands against the estate of any deceased person; and if it shall be found that a true and just account of the remaining assetts has been rendered to the said court, then the party making such suggestion shall pay costs: But if it be found that a true and just account has not been rendered to the said court, then judgment shall be rendered in the name of the party making such suggestion against such executor or administrator of his own proper goods, chattels, lands, and tenements with costs of suit, for the amount found to be wasted; and execution shall go against such executor or administrator, and the money when collected shall be apportioned among the respective creditors.

Execution against executor or administrator de bonis propriis.

Sec. 7. When the said court shall have finally adjusted the remaining assetts of any insolvent estate as aforesaid, that may have been found in the hands of any executor or administrator, the adjustment and apportionment so made, and approved of by the court shall be taken and deemed a debt or debts of record against said executor or administrator and if the executor or administrator refuseth to pay the same pursuant to said adjustment, and order, then it

Final apportionments of insolvent's estate shall be deemed debts of record.

shall be lawful for said court, or the clerk thereof in vacation at the instance of any creditor to issue a scire facias against said executor or administrator for such sum as shall be found due by said liquidation, on which sacire facias being returned executed, it shall be the duty of said court to give judgment against said executor or administrator de bonis propriis for such sum, and execution shall issue accordingly for the same with costs of suit. And if any executor or administrator, creditor or creditors shall feel aggrieved, either by such liquidation of the debts aforesaid, or by having been refused to come in as a prorata creditor or on the rendition of the judgment on the scire facias then it shall and may be lawful for such party to appeal from the sentence, judgment, or decree of said court; and which appeal when so entered shall be a supersedeas to all further proceedings till the same be determined. *Provided*, That if it is the creditor who appeals he shall file security for the costs then due, and for all that shall accrue on presenting said appeal, to the other party. And if it is the executor or administrator that appeals he shall enter into bond with sufficient security in double the sum in dispute conditioned to abide the sentence of the superior court; and pay all costs that shall be adjudged against him if he fails to prosecute his appeal to effect. And such security being given it shall be the duty of the clerk to make out a transcript of said adjustment and liquidation, and of such judgment if any has been given, and of all the proceedings in said cause and transmit the same to the clerk of the superior court on or before the first day of the next succeeding term of the superior court

Scire facias may be sued out on refusal of payment.

Court to give judgment on the return of the writ de bonis propriis.

Appeal.

Supersedeas to proceedings in the court below.

Creditor to fill surety for costs.

Executor or administrator to give bond.

Clerk to send a transcript to the clerk of the superior court.

When shall docket the same for trial.

to be holden for the proper county, and it shall be the duty of the clerk of the superior court to receive and file the same and place it on the docket for trial as other cases: and when the suit is called it shall be the duty of the superior court to proceed in said case on the merits, as though no trial had ever taken place in said cause; and to give such judgment or decree as the court below ought to have done, which decree and judgment when so given shall be final. And it shall be the duty of the clerk of the superior court to make out a full transcript of the proceedings had in the said superior court, with costs, and transmit the same to the clerk of the said court from whence the appeal was taken; who shall receive and file the same, and issue execution thereon accordingly.

Superior court to pass final judgment.

Clerk of the superior court to send full transcript to the clerk of the court below who shall issue execution.

Sec. 8. If after the final adjustment of any estate which is represented insolvent, any creditor or other person interested shall wish to bring his action of waste or devastavit, such creditor shall be at liberty so to do; and if he can shew waste of goods or the mismanagement of the goods or estate of the deceased, at any time by the executor or administrator, such creditor shall have judgment for so much as he shall prove to have been wasted; and the settlement made with the court shall only be conclusive so far as the executor or administrator shall have applied the assetts in pursuance of the apportionment made by the court for paying the creditors prorata.

Creditors &c. may bring action of waste after final adjustment.

Sec. 9 the remaining part of any lands, tenements and hereditaments and slaves and personal estate, after the widow's right of dower as herein before provided and after the payment of all just debts, whereof any

Distribution of intestate's estate.

person died seized and possessed, not sold and disposed of by will, or otherwise limited by marriage settlement shall be divided and enjoyed in manner following to wit: if the intestate leaves a widow and lawful issue, the widow to be entitled as her dower, to one third part of such lands and tenements of which the husband was seized and possessed during coverture either by virtue of deed, patent, entry, warrant, or survey, and to which she has not relinquished her right to dower, except lands sold on execution, or where lands have been mortgaged and sold in pursuance of the decree of a court of justice. And such widow shall also be entitled to one third part of the slaves whereof the husband died seized or possessed, for and during her natural life; and at her death the said real estate, and the slaves and their increase shall descend and be disposed of as in this act is provided with respect to the whole estate in case the intestate leaves no widow, and also to one third part of the personal estate absolutely. And the remaining two thirds of the estate real and personal, shall immediately descend and be distributed among the lawful children of the intestate; such children always to inherit and enjoy as tenants in common in equal parts; and in case the person dying intestate shall leave several persons lawful issue in the direct line of lineal descent, and all of equal degree of consanguinity to the person dying intestate the said two thirds of said estate shall descend and be distributed to the several persons as tenants in common in equal parts; however remote from the intestate the common degree of consanguinity may be in the same manner as if they were all children of the

Widow's dower.

Of lands.

Of slaves.

Of personal estate.

Distribution of the residue.

Lineal heirs of equal degree shall take as tenants in common.

And

Of different degrees as tenants in common per stirpes.

intestate. And in case the intestate shall leave lawful issue of different degrees of consanguinity to him or her, the said two thirds of said estate shall descend, and the personal estate be distributed to the lawful child or children of the intestate, if either or any of them be then living, and unto the lawful issue of such of the children that shall be then dead leaving lawful issue, as tenants in common: such issue always to inherit, if one person solely, and if several persons in equal parts, such shares only as would have descended to his, her or their parent, if such parent had been then living. And each of the lawful children of the intestate to inherit and receive such share as would have descended or been distributed to him or her if all the children of the intestate who shall be then dead, leaving lawful issue, had been living at the death of the intestate. And if there be no child of the intestate living at the death of the intestate and only a grand-child or grand-children, and the lawful issue of a grand-child or grand-children who shall be then dead leaving lawful issue. Then the real estate shall descend and the personal estate be distributed to such grand-child or grand-children of the intestate, and to the lawful issue of such of the grand-children of the intestate as shall be then dead leaving issue, as tenants in common. Such issue always to inherit, if one person solely, and if several persons, as tenants in common in equal parts, such shares only as would have descended to his, her or their parent, if such parent had been then living. And each of the grand-children so dying intestate, who shall be in being at the time of the death of the intestate, always to inherit

And the same rule of descent & distribution holds when the degree is farther removed.

and receive such share as would have descended or have been distributed to him or her if all the grandchildren of the intestate who shall be then dead leaving lawful issue, had been living at the time of the death of the intestate. And the same law of inheritence, descent and distribution shall be observed in case of the death of the grand-children and the descendents of the remotest degree.

Disposition of the estate when there is no widow.

Sec. 10. In case the intestate leaves no widow, the whole real and personal estate shall descend, and be divided, as is directed in the preceding section with respect to the estate not disposed of in favor of the widow.

Widow's dower when there is no issue.

And if the intestate shall leave a widow and no lawful issue, the said widow shall have in fee simple to her, her heirs and assigns forever, the one half of all such lands and tenements of which her husband was seized and possessed during coverture, either by virtue of a deed, patent, entry, warrant or order of survey, to which she had not relinquished her right of dower, except such lands or tenements as shall have been sold by virtue of an execution, or shall have been mortgaged and sold by virtue of a decree of a court of justice; and the said widow shall also have to her, her heirs and assigns forever, the one half of all the slaves whereof the intestate died possessed: except in cases where the slaves all come by or on the part of the said widow, in which case she shall have the whole of the slaves that come to the said estate by or through her, with their increase, and the one half of all the other slaves (if any) whereof the intestate died possessed. And the said widow shall moreover have to her, her heirs and assigns the whole of the other personal estate whereof the said intestate

Widow to have all of the slaves when they come through her.

And.

All other personal estate.

died possessed after the just debts be paid thereout. And the remaining part of the lands, tenements and slaves not herein disposed of shall descend and be enjoyed as is directed by this act with respect to the whole estate, in case the intestate leaves no widow.

Residue.

When there is neither widow nor issue the father to take real estate & slaves for life.

Sec. 11. In case any person so as aforesaid seized or possessed shall die leaving neither widow nor lawful issue, but leaving a father, the whole of the said real estate and slaves shall be enjoyed by the father of the intestate, for and during the life of the said father, and the personal estate of the said intestate shall pass and be invested in the father absolutely, unless the real and personal estate the slaves or either of them, came to the person so dying, seized or possessed from the part of his mother, in which case the said estate, or such part thereof as shall have come from the part of his or her mother shall descend, pass, and be enjoyed and possessed as if such person so dying seized had survived his or her father.

Personal estate absolutely unless derived through the mother.

When there is no widow nor issue the brothers & sisters shall take as tenants in common after death of the father.

Sec. 12. If any person so dying seized shall leave neither widow nor lawful issue but shall leave a father, brothers and sisters, the said real estate and the slaves and their increase shall descend to and be enjoyed by the brothers and sisters of the intestate, after the decease of the father, as tenants in common in equal parts, and if any of the brothers or sisters of the intestate shall be then dead leaving lawful issue then it shall descend to and be enjoyed by the surviving brothers and sisters, and the lawful issue of such brothers and sisters as shall be then dead, leaving lawful issue, always to inherit if one person solely, if several persons as

The issue of deceased brothers and sisters.

tenants in common, such share only as would have descended to his, her, or their parent, had such parent been then living. And each of the brothers or sisters of the person so dying intestate, who shall be then living at the time of the death of the intestate, always to inherit and enjoy such share as would have descended or been distributed to him or her as if all the brothers and sisters leaving lawful issue, had been living at the time of the death of the intestate. But if the intestate shall leave no brother nor sister nor their legal representatives then the real estate shall go to the father in fee simple, and the slaves absolutely, unless when the estate has descended on the part of the mother as aforesaid.

If neither widow, issue brother nor sister, father to take in fee simple.

Sec. 13. In case any person so as aforesaid seized or possessed shall die leaving no widow nor lawfull issue, nor father, but leaving a mother, then the whole of the real estate and slaves shall be enjoyed by the mother of the intestate for and during the natural life of such mother; and the personal estate of the said intestate shall pass, and be vested in the said mother absolutely, unless the said real and personal estate and slaves, or either of them came to the person so dying seized or possessed thereof from the part of his or her father; in which case the said estate or such part thereof as shall have come from the part of his or her father, shall descend, pass and be enjoyed or possessed as if such person so dying seized had survived his or her mother.

When there is no widow issue nor father the mother shall take the lands and slaves for life and personal estate absolutely.

Unless derived from the father.

And.

Sec. 14. If the person dying seized shall leave neither widow nor lawful issue, but shall leave a mother and brothers and sisters, the said real estate and slaves together with the increase of such slaves,

After the mother's death the brothers and sisters shall take as tenants in common.

shall descend to and be enjoyed by the brothers and sisters of the intestate, or their representatives after the decease of the mother, as tenants in common in equal parts. And if any of the brothers and sisters of the intestate shall be then dead leaving lawful issue, then it shall descend to and be enjoyed by the surviving brothers and sisters and the lawful issue of such brothers and sisters as shall be then dead leaving lawful issue; such issue always to inherit if one person solely, if several persons, as tenants in common in equal parts such share only as would have descended to his, her or their parents, had such parents been then living. And each of the brothers and sisters of the person dying intestate always to inherit and enjoy such share as would have descended and been distributed to him or her, if all the brothers and sisters leaving lawful issue had been living at the time of the death of the intestate. And in the same manner the estate of any intestate leaving neither widow nor lawful issue nor father, nor mother, but brothers and sisters shall be distributed among the brothers and sisters of such intestate or their representatives.

Issue of the deceased brothers and sisters.

Surviving brothers and sisters their relative shares.

When there is no widow issue father nor mother.

Sec. 15. There shall be no distinction in the distribution of any intestate's estate between kindred of the whole or half blood unless when the inheritance came to the said person so seized by descent, demise, or gift, of some one of his or her ancestors, in which case all those who are not of the blood of such ancestor, shall be excluded from such inheritance or distribution.

Kindred of the half blood.

Sec. 16. All posthumous children shall in all cases whatsoever inherit in like manner as if they were born in the lifetime of their respective fathers. And when a man

Posthumous children.

shall have one or more children by a woman; and shall afterwards intermarry with such woman such child or children if recognized by him shall be thereby legitimated, and capable of inheriting.

Children born before marriage.

Sec. 17. The real and personal estate, and slaves, if any person dying intestate, in case such person leave neither widow, nor lineal descendant, or lineal ascendant, nor brother or sisters, nor lawful issue of any brother or sister; shall descend to and be divided among the next of kin of equal degree: And if any such kindred shall be then dead leaving lawful issue, then it shall descend to and be enjoyed by such surviving kindred, and the lawful issue of such kindred as may be then dead leaving issue as tenants in common, such issue always to inherit if one person solely, and if several persons as tenants in common such share only as would have descended to his, her or their parents, if such parents had been then living. And each of the kindred in equal degree to the person so dying intestate who shall be living at the time of the death of the intestate always to inherit and receive such share as would have descended to him, her or them if all such kindred leaving lawful issue had been living at the time of the death of the intestate.

How intestate's estate shall go when he leaves neither widow nor lineal descendant nor ascendant nor brother nor sister.

Sec. 18. That part of the intestates estate in this act allowed to the widow shall be in lieu and satisfaction of the dower at common law.

Sec. 19. When a woman dies leaving an husband he shall take the personal estate absolutely, and the real estate shall go and descend in the same manner as is directed in the case of men dying intestate, saving to the husband his right as tenant by the cour-

When a woman dies leaving a husband her estate how disposed of.

tesy. When a woman dies leaving a husband and no lawful issue the husband shall have all the slaves and other personal estate absolutely, whether reduced to possession during the coverture or not. And he shall also have to himself his heirs and assigns the one half of the real estate that come by or through his deceased wife. And the residue of such estate shall go and descend in the same manner as is directed in the case of men dying intestate.

Estate to vest in fee simple in the mother under certain circumstances.

Sec. 20. If any intestate shall die seized of real estate in fee simple or slaves, and shall leave no widow nor issue, father, brother, sister or their representatives, the said estate shall go and be vested in fee simple in the mother unless where such estate has descended from the part of the father, in which case it or such part thereof as shall have come from the part of his or her father, shall pass and be enjoyed as if such person so dying seized had survived his or her mother.

Administrator of the estate of intestate leaving no legal representative.

Sec. 21. If any intestate seized and possessed of any lands, tenements, or hereditaments, goods, chattels, rights and credits leaving no lawful issue nor father, mother brother or sister or legal representative, and if any person shall administer on the estate of such intestate, such administrator shall be considered as trustee for the use of the territory where such person shall or may die, or where letters of administration may be taken out of the estate real and personal of such intestate. And it shall be the duty of such administrator immediately on administering on any estate where it is commonly believed and reported that such intestate has died without legal heirs or representatives, cause to be published a notice

Administrator trustee for the territory.

Duties of administrator.

in some newspaper printed in this territory, and one or more of the neighboring states or territories and continued in the same for six weeks, containing the name of the intestate and as near as may be a description of the person together with a statement of the place where such intestate died, also the place of such intestate's nativity if known, and also a statement of the appraised amount of such estate: the expences of which shall be paid out of such intestate's estate. And it shall be the duty of such administrator after the expiration of four years from the time of taking out letters of administration if no heir or legal representative shall appear, to pay into the treasury of the territory under the direction of the circuit court of the county where letters of administration were granted, all the proceeds of the personal estate of such intestate, after paying all debts and legal demands against such intestates estate, and after retaining twelve and a half per centum upon the whole amount of such personal estate for his personal trouble in administering the same together with all actual disbursements by him necessarily made in and about administering such estate. And it shall be the duty of said court, in directing the proceeds of such intestate's personal estate to be paid into the territorial treasury, to cause an entry to be made of record specifying the amount so paid into the territorial treasury; and also the name of the intestate and of the administrator so paying the same together with a copy of the notice of publication hereinbefore directed by this act, and shall thereupon discharge such administrator of the amount so paid together with the twelve

To give notice.

After 4 years to pay the proceeds into the territorial treasury under direction of the court.

To pay debts;

Reserving commission.

And

Necessary disbursments.

Court to cause an entry of such payment to be made of record.

and a half per centum and other necessary disbursements herein before mentioned.

Duties of administrator with regard to real estate.

Sec. 22. It shall be the duty of such administrator at the expiration of five years, if no heir or legal representative shall appear, and there shall be real estate of which the intestate died seized or possessed of in this territory, such administrator shall apply to the circuit court of the county where such estate may be, for an order of sale of such estate whose duty it shall be upon said administrator producing to said court his letters of administration of such intestate's estate, and a copy of the notice published as heretofore directed, with regard to the description of such intestate, together with a certificate from the court from whence said letters of administration issued under the seal of said court, if any other than the court from whence such letters of administration issued; certifying it to be such estate as comes within the purview of the twentyfirst section of this act; to order the sale of such real estate to be made on some day of the next succeeding term of said court, at the court-house door, after said administrator having advertised the same in some public newspaper printed in this territory, and continued in such paper at least three weeks, next preceding the day of sale. And upon the sale of such estate as aforesaid, it shall be the duty of such administrator to give a credit to the purchaser of said estate, who shall be the highest bidder, for one year, upon such purchaser giving bond with security to be approved by the executor or administrator for the payment of the purchase money. And it shall be the duty of such administrator upon the sale of such estate to execute to the purcha-

To apply for an order of sale.

Court to order sale.

On credit.

Administrator to execute a deed.

ser thereof a deed in fee simple conveying all the right, title and interest that said intestate had in and to said estate: which deed shall be acknowledged before the circuit court of the county where the estate shall lie. And it shall be the further duty of such administrator to pay over into the territorial treasury all the proceeds by him made and received by the sale of such estate, in the same manner as is directed in the twentyfirst section of this act, retaining for his trouble, ten per centum upon the whole proceeds of such sale, together with all necessary disbursements by him actually made in and about settling such estate. *Provided*, That no executor or administrator shall either directly or indirectly become the purchaser of the whole or any part of the land sold by virtue of this section, and that when he makes the deed for said land so sold he shall make an oath that he is neither directly or indirectly interested in the purchase of said lands or tenements, or any part thereof, nor has the same been purchased for his benefit or use.

To pay the proceeds into the territorial treasury.

Executor or administrator not to purchase.

Sec. 23. It shall be the duty of the several courts granting letters of administration before such letters be granted to cause the person applying for administration to state upon oath to the best of his or her knowledge if there are any heirs or legal representatives of the intestate in being; which statement shall be in writing and subscribed by the party making the same.

Oath before granting letters of administration.

Sec. 24. If no heir or legal representative of any intestate within the meaning of the twentyfirst section of this act, shall appear and prove his right to such intestate's estate, after the money aforesaid is paid into the territorial treasury within ten years,

Limitation to the claim of heirs &c.

Ten years.

such heir or legal representative shall be barred from having or receiving any part of such intestate's estate, real, or personal, or the proceeds thereof: saving however the rights of infants, married women, persons of unsound mind, and persons not within the limits of the United States or her territories who shall respectively have the aforesaid ten years after their respective disabilities are removed or his or their return to the limits of the United States or her territories to prove their respective claims aforesaid. But if any heir or legal representative shall appear within the time limited by this section, and produce legal proof of his her or their right to claim such estate the court shall cause the money paid into the treasury as aforesaid, to be forthwith paid unto him, her or them, out of the territorial treasury.

If an heir appear. court to order payment.

Who may make a will,

Sec. 25. Every person aged twentyone years or upwards being of sound and disposing mind, and not a married woman (unless by marriage settlement or special authority of the husband power is given to make a will) which power shall be in writing and executed before the marriage entered into, shall have power, at his or her will and pleasure, by last will and testament in writing to devise all his or her estate, right, title and interest in possession reversion, or remainder which he or she has at the time of his or her death shall have of or in and to lands, tenements, hereditaments, annuities or rents charged upon or issuing out of them, or slaves, and also to bequeath all his or their personal estate, so that such will and testament be signed by the testator or testatrix; or by some other person in his or her presence, and by his

Of what.

How to be executed.

or her direction and moreover such will and testament shall be attested by two or more competent witnesses subscribing their names to such will and testament in the presence of each other, and in the presence of the testator or testatrix: saving to the widow of such testator her legal rights to dower, in such lands and tenements, rents and annuities which shall not be prejudiced by any devise thereof.

Saving widows dower.

Sec. 26. Any person above the age of eighteen years, being of sound and disposing mind shall be capable of disposing of his or her goods and chattels by will, so that such will be executed in the same manner as is prescribed in the foregoing section.

Persons above the age of 18 may make a will of goods and chattels.

Sec. 27. No will in writing or any devise therein shall be revoked by any subsequent will, codicil or declaration unless the same be in writing and executed in the same manner that is provided with respect to wills and testaments; and no devise so made or any clause thereof shall be revocable but by the testator or testatrix destroying, cancelling or obliterating the same, or causing it to be done in his or her presence by a subsequent will, codicil, or declaration in writing as aforesaid.

Revocation.

Sec. 28. When any person shall make his or her last will and testament and omits to mention the name of any child or children, if living, or the legal representatives of such child or children, or afterwards shall marry or have a child or children not provided for in such will, and die leaving a widow and child, or either widow or child, although such child be born after the death of the father, every such person so far as shall regard the widow or such child or

When the name of a child is omitted in a will.

Void as it relates to such child.

children shall be deemed to die intestate; and such child or children shall be entitled to such proportion share and dividend of the estate real and personal of the deceased, as if he or she had actually died without will: towards raising which proportions the devisees and legatees shall contribute proportionally out of the part devised or bequeathed to them by the same will and testament, and the circuit court shall have power to order and decree a distribution of such estate according to the true meaning of this act. And if the devisees or legatees shall refuse to pay the same, the said party for the recovery thereof may have a scire facias against them for the same on the return of which it shall be the duty of the court to enter judgment against such devisee or legatee and issue execution for the same.

Nuncupative wills.

Sec. 29. No nuncupative will shall be established unless it be made in the time of the last sickness of the deceased, at his habitation or where he has resided ten days next preceding; except when the deceased is taken sick from home, and dies before he returns to his habitation; or when the value exceeds the sum of two hundred dollars, and unless it be proved by two witnessess that the testator called on some person present to take notice, or bear testimony that such is his will, or words to the like import. And after six months past, after speaking the pretended testamentary words no testimony shall be received to prove any will nuncupative, except the said testimony or the substance thereof, were committed to writing within thirty days after the making the said will, either by one of the

witnesses to said will, or by some person at his or her direction.

Probate of Nuncupative wills.

Sec. 30. No letters testamentary or probate of any nuncupative will shall be granted by the court until at least fourteen days after the death of the testator be fully expired, nor shall any nuncupative will be at any time received to be proved, unless the substance thereof be first committed to writing, and a citation be issued thereon accompanied with a copy thereof to call in the widow or next of kin of the deceased, to the end that they may contest the same if they please. *Provided however*, That any mariner, or person being at sea, or soldier being in actual military service, may dispose of his movables, wages, and personal estate as he could or might have done by common law, or by having reduced the same to writing.

Proviso.

Probate or administration where granted.

Sec. 31. If any testator or intestate shall have a mansion house or known place of abode in any county, his will shall be proven before, or letters of administration granted by the circuit court of such county, in term time, or before the clerk of said court in vacation, subject to the revison of said court: if he has no such place of residence and lands be devised in the will, or the intestate be possessed of lands, it shall be proved or administration granted in the county wherein the lands lie, or in one of them if they shall lie in several counties. And if he has no such known place of residence, and there be no lands devised, or the intestate possessed of any lands then the will may be proved, or administration granted in the county where he dies, or where the greater part of the estate may be. And if he dies in no county in this territory, and

there be no known estate in any county, administration may be granted or his will proved in any county in this territory.

Proof of wills when taken.

Sec. 32. When any will shall be exhibited to be proved, the court having jurisdiction thereof or the clerk of said court in vacation, subject to the revision of said court, may immediately receive the proof thereof and grant a certificate of such probate; or if such will is rejected shall grant a certificate of such rejection. If however any person interested shall within five years afterwards appear, and by his petition to the superior court of the proper county contest the validity of any will proved, or shall pray to have any will proved which has been rejected, an issue shall be made up whether the writing produced be the will of the testator or not; which issue shall be tried in the superior court by a jury, if either party require it, or by the court; and the verdict of the jury or the judgment of the court shall be final, saving to the court the power of granting a new trial for good causes, as in other cases. But no such party appearing within that time, the probate or rejection of such will shall be forever binding: saving to infants and married women, and persons absent from the United States or territories during the whole of said five years, or of unsound mind a like period after the removal of their respective disabilities.

Certificate.

Petition to invalidate an approved, or prove a rejected will in 5 years.

Commissions may issue in certain cases.

Sec. 33. The circuit court or the clerk in vacation subject to the revision of the court, when any will shall be produced to them for probate, and any witnesses to the same shall be prevented by sickness to attend, or resides out of the territory, or more than sixty miles from the place where such

will is to be proved, may issue a commission annexed to such will, and directed to any judge of any court of law, or justice of the peace, or mayor or other chief magistrate empowering him to take and to certify such witnesses attestation; and if such witness shall appear before such magistrate and make oath or affirmation that the testator signed and published the writing annexed to such commission as his last will and testament, or that some other person signed it by his direction, that he was of sound and disposing mind, that the witness subscribed his name thereto in the presence of such testator and at his request and in the presence of other subscribing witnesses and the testimony so taken shall have the same force as if it had been made before the court which issued the commission.

Authentic copies of wills made out of the territory good evidence.

Sec. 34. Authenticated copies of wills proved according to the laws of any of the United States, or territories, or country where the same is made, with the probate thereof annexed or endorsed, being transmitted into this territory under the public or common seal of the court or office where the same have been granted and recorded, shall be good and available in law for the granting, conveying, and assuring of the lands and tenements thereby given or demised, as well as if the goods and chattels thereby bequeathed. And the copies made as aforesaid other than copies or probate of such wills as shall appear to be annulled or disapproved, shall be judged and deemed, and are hereby declared matter of record and shall be good evidence to prove the gift or devise so made thereby. All such probates as well as letters testamentary or

And deemed matter of record.

Such copies &c, enable

executors and administrators to sue.

administration granted out of this territory being produced here under the seal of the court or office granting the same, shall be sufficient to enable the executors or administraters by themselves or attornies to bring their action in any court within this territory, as if the said probate or letters testamentary or administration were granted here, and produced under the seal of any court of this territory having power to grant the same. *Provided*, That any of the wills whereof copies or probate shall be produced and given in evidence as aforesaid, may be contested disproved and annulled, within the same period and in the same manner as provided heretofore by this act repecting wills proven in this territory.

Subject to be contested as other wills.

Sec. 35. In trials respecting the validity of a will, the oath of the witness if reduced to writing at the time of taking such oath, at the time of the first probate shall be admitted in evidence to have such weight as the court or the jury shall think it deserves.

Evidence on trial of the validity of wills.

Sec. 36. Executors and administrators with the will annexed shall take an oath before the court, or clerk in vacation as aforesaid, before granting a certificate of any probate of any will, that they will well and truly perform the last will and testament of the testator, by paying first his debts, and then the legacies contained in the said will, as far as his goods, chattels, rights, and credits will extend, and the law charge them; and that they will make a true and perfect inventory of the said goods and chattels, rights; as also a just account when thereto required.

Oath of executor or administrator with the will annexed.

Sec. 37. If the person named as executor in any last will and testament shall refuse to take on himself the executorship the

Administration when the executor named in the

court or clerk in vacation as aforesaid may receive the proof of the will and grant letters of administration with the will annexed, to the person to whom administration would have been granted if there had been no will of the deceased.

will receive proof of will and grant letters of administration with the will annexed to the person to whom administration would have been granted if there had been no will of the deceased.

Sec. 38. Executors and administrators with the will annexed or of goods not administered, shall give bond with security and take an oath or affirmation as is provided with respect to administrators of intestates, estate only changing such part thereof as the different circumstances of the case may respectively require, *Provided*, That any testator by an express provision in his last will may direct that no security shall be given by his executors or administrators, except in cases provided for in the thirty ninth section of this act.

Executors or administrator with the will annexed or de bonis non to give bond & make oath.

Sec. 39. Whenever any legatee, creditor or person interested in the real and personal estate of a person who has heretofore died or shall hereafter die, or surety in any bond given by executors or administrators shall declare on oath or affirmation that he she, or they have sufficient cause to believe that the executors or administrators are wasting or mismanaging the estate of such deceased, or that the sureties given in any of the aforesaid bonds are likely to become insolvent, and shall make application to the circuit court of the county in which letters testamentary or letters of administration have been, or shall be granted, the said court are hereby empowered to examine the cause of complaint, and if it shall appear to them that the same is just, it shall and may be lawful for such court to order such executor or administrator to give such sufficient bond with securities, notwith-

Court may on application order executors or administrators to give further security in certain cases.

standing the testator shall have directed in and by his last will and testament that no security shall be given by his executor or executors; or such further security, as they may think necessary amounting to the value of the estate; which sureties shall be taken and filed in the office of said court, in the name of the governor of this territory. And the said bond shall be deemed and considered in trust for the benefit of all persons interested in said estate whether legatees, legal representatives, creditors, or sureties in former administration bonds. And in case such executors or administrators shall refuse or neglect for the space of thirty days after due notice of such order, to give the security or further security so ordered then the said court shall vacate the letters testamentary or of administration and grant new letters to such person or persons and upon such security as said court shall think proper and shall moreover order the former executor or administrator to deliver over and pay to the successor all and every the goods, chattels, and credits, rights, titles, deeds evidences and securities which were the decedents, and which came to his or their hands, and remain unadministered: and to account to the said successor for all and every the goods, chattels, rights and credits which shall have been previously administered, and pay over the ballance which shall remain due from him or them to the said successor, in such manner and at such time as the said court shall, upon examination, and confirmation of such account to be had according to the course of proceedings by this act provided for in cases of accounts of executors and administrators to be settled in said court, award and or-

If executor or administrator neglect to give security the court shall vacate his letters and grant them to some other.

And order him to pay over the goods &c. and account to his successor.

der. And if any such superseded executor or administrator shall neglect or refuse to comply with such award or order, the court on motion shall proceed against him or them by attachment for contempt, or the succeeding administrator may proceed at law against him or them, or his or their sureties, if any there be, or against any other person or persons that may be possessed of any estate of such deceased person; or both the same remedies may be pursued at the same time, if the case may require until the end be fully attained. *Provided*, That such suits be instituted against such sureties within seven years after the vacating of such letters testamentary or of adminiinistration. And the whole amount of money to be recovered thereupon shall not exceed the penalty of the said bonds respectively.

Penalty.

Limitation as against sureties.

Sec. 40. The power of executors over their testator's estate before probate of the will shall in no wise be restrained, but shall continue as heretofore. Executors, or administrators with the will annexed shall file their inventories and accounts within the same period respectively as is provided heretofore in this law with respect to administrators of intestates.

Power of executors before probate.

Inventories and accounts.

Sec. 41. During any contest about a will or in the absence of the executor or during the minority of the executor the court may grant letters of administration during the minority or absence of such executor, or may appoint any person, or persons to collect and preserve the estate of the decedent until a probate of his will or administration of his estate be granted taking bond and security for administering the estate of such testator well and truly during the minority or absence of the executor, or for

Administration in case of a contested will, and in the minority or absence of the executor.

collecting the estate and making an inventory thereof and safe keeping and delivering up the same when required thereto by the executor or administrator.

Qualification age.

Sec. 42. No person can act as executor or administrator unless he be twentyone years of age or upwards.

Letters of administraton to whom granted.

Sec. 43. Letters of administration shall be granted to the representatives of the intestate who apply for the same, preferring first the husband or wife and such others as are entitled to disribution, or one or more of them, as the court, or clerk in vacation shall consider will best manage and improve the estate: and if no such person apply for administration within sixty days after the death of the intestate, the court or clerk in vacation, may grant administration to any creditor who may apply for the same within ninety days after the death of the intestate. And if within that time no such application is made then to any other person the court or clerk in vacation may think fit. But if any will shall afterwards be produced and proved by the executor and shall apply for letters testamentary the same shall be granted, in like manner as if the former had not been obtained. *Provided*, That if the husband or widow or any distributee after been served with a citation issued by the court or clerk in vacation shall neglect to appear within thirty days after such service to take out letters of administration such neglect shall be considered as a renunciation of such person to the administration.

Will, produced after administration granted.

Security not liable beyond the assetts.

Sec. 44. No security for any executor or administrator shall be charged beyond the assetts of the testator or intestate by reason of any omission or mistake in pleading, or

for false pleading of such executor or administrator. And when any action shall be brought against any executor or administrator suggesting devastavit, or waste of the estate of any testator or intestate, if such executor or administrator cannot shew that he has fully administered according to law he shall not be charged of his own estate further than the real amount of the estate of the testator or intestate at the time of his or her death; and if on trial the plaintiff can shew waste or mismanagement of the estate to the amount of his demand he shall recover of the proper estate of the executor or administrator his debt with interest and costs. *Provided*, That if the estate of the deceased were insufficient at the time of his death to pay all the debts of the said deceased then such plaintiff in the action of waste shall recover of the proper estate of the executor or administrator such rate or proportion of the whole assetts as he would have drawn, or was entitled to out of the estate of the deceased, under the law in cases where the estate is unable to pay the whole debts.

Liability of executor or administrator for waste.

Sec. 45. Every court or clerk in vacation, on granting letters testamentary, or letters of administration, shall appoint three respectable disinterested house holders, of the neighborhood of the deceased, and not being of kin to such deceased or widow, who being sworn or affirmed before some justice of the peace for that purpose shall truely and justly to the best of their skill and abilities, view and appraise all the slaves, and all the personal estate to them produced; and shall return such apprais-ment under their hands to the court, or clark ordering the same. Which apprais-

Appointment of appraisors.

Inventory.

ment if signed by the executor or administrator may be considered as an inventory of such part of the estate as had heretofore come to his hands or possession: and in all cases where any person dies intestate leaving a widow or widow and children, or children and no widow, such widow shall be entitled to keep her wearing apparel, and such household goods, farming utensils, provisions and clothing, necessary for the support and maintainance of such widow, widow and children, or children as the appraisors shall exempt from inventory they having special regard to the ability of such widow, or widow and children to provide and maintain herself and themselves. And it shall be the duty of the court or clerk appointing appraisors to an intestates estate as aforesaid, to direct them to make out a list or statement signed by such appraisors of all the household goods, farming utensils and provisions and clothing by them exempted from inventory together with the number of such family, which list and statement of articles it shall be the duty of such appraisors also to appraise and lodge with the clerk or court which list of articles, and appraisment shall be considered and taken as forming a part of the widow's dower, or be in lieu thereof, if the same shall amount to the one third part of the said deceased's estate: and such list, or statement shall discharge the administrator from being accountable for the goods, effects and provisions so exempted as aforesaid.

Wearing apperal and certain goods to remain with the widow.

Appraisors to make list of such goods.

Widow's dower.

Sec. 46. Inventories and appraisments may be given in evidence in any suit by or against the executor or administrator but shall not be conclusive for or against them

Inventories and appraisments may be given in evidence.

if other testimony be given that the estate was really worth or was bona fide sold for more or less than the appraised amount.

Compensation.

Sec. 47. Each appraisor shall be entitled to one dollar per day for his attendance to be paid out of the estate of the deceased.

Executors or administrators to sell perishable goods.

Sec. 48. Executors and administrators whether it be necessary for the payment of debts or not, shall as soon as convenient after they are qualified, sell at public sale all such goods of their testator or intestate, specific legacies excepted, as are liable to perish, be consumed or rendered worse by keeping, giving such credit as they shall judge best and the circumstances of the estate will admit of, taking bonds or promissory notes with good security of the purchasers, and shall account for such goods according to the sales, if more be sold than will pay the debts and expences. The executors and administrators may assign said notes for the surplus to those entitled to the estate and be discharged for so much. If such perishable goods be not sufficient for the paying of debts and expences the executors or administrators shall proceed to sell the other personal estate disposing of the slaves last, until the debts and legacies be all paid, having regard to the specific legacies. *Provided*, That if any testator direct his estate not to be sold the same shall be preserved in specie unless a sale be necessary for the payment of debts; and if directed not to be appraised or sold, it shall be sufficient to return an inventory only.

Their notes which they may assign.

other personal estate.

Proviso.

Sec. 49. The judges of the respective courts and all others concerned in the execution of any last will and testament shall have due regard to the direction of the will

and the true intent and meaning of the testator in all matters and things that shall be brought before them concerning the same.

Sale of lands, by whom made.

Sec. 50. The sale and conveyance of lands and tenements to be sold in pursuance of any will shall be made by the executors or such of them as shall undertake the execution of the same, or by the surviving executors, or by the administrator with the will annexed, if no other person be appointed in such will for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have completed the same.

Executors and administrators when compellible to pay legacies or make distribution.

Sec. 51. Executors and administrators shall not be compelled to make distribution or pay legacies until one year after granting the administration or letters testamentary unless the legacy specified be such kind of property as would be perishable or subject to injury if retained for one year. Nor shall administrators be compelled to make distribution or pay legacies at any time until bond and security be given by the person entitled to distribution or to a legacy, to refund due proportion of any debt or demand which may afterwards appear against the estate and the costs attending the recovery of such debts. *Provided*, That such debts and demands shall appear within five years after the granting the letters of administration or letters testamentary.

Debts barred by five years nonclaim.

And debts and demands which shall not be exhibited to the executor or administrator within the said five years shall forever afterwards be barred.

Provided the executor or administrator gives notice.

Provided also, That the executor or administrator shall give notice to all creditors and legatees or distributees that they will be barred within the

time aforesaid unless they exhibit their respective demands to said executors or administrators within the time specified as aforesaid; such notice to be given in some public newspaper printed in this territory, and also in some newspaper printed in some neighboring state or territory; to be continued in such paper for at least four weeks. Saving however to married woman infants, persons of unsound mind, persons imprisoned and persons beyond the limits of the boundaries of the United States, or in the military service of the United States during the war, the said term of five years after their respective disabilities are removed to exhibit their respective demands to said executors or administrators. And no executor or administrators shall be compelled to pay debts within twelve months after the taking the letters of administration or letters testamentary as aforesaid. And if any person shall bring an action against any executor or administrator within said twelve months as aforesaid, such person bringing such action although he may obtain judgment for the amount of his debt or demand shall not recover any costs of his suit: and no person shall take out an execution on such judgment within the twelve months aforesaid; nor shall any execution issue on any judgment obtained against said deceased in his life time in less than twelve months after granting administration as aforesaid. And in all cases where judgments are rendered against executors or administrators to be levied on the goods and chattels of the deceased, the judgment shall not be entered for costs against the executor or administrator of his own proper goods.

Exceptions.

Not compellible to pay debts in 12 months.

On actions brought within 12 months no costs to be recovered and execution stayed.

Stay of execution on judgment against deceased.

No costs de bonis propriis of executors or administrators.

Charges and disbursements of executors and administrators.

Sec. 52 Executors and administrators shall be allowed in their accounts all reasonable charges and disbursments which they shall lay out and expend in funeral expenses of the deceased and other, their administration; and may be allowed such recompense for their personal trouble, not exceeding six per centum on the whole amount of the personal estate and not exceeding one per centum on the money arising from the sale of lands and slaves. And when any executors or administrators shall claim any allowance for any actual disbursments by them made, they shall produce proof of the existance of such demand, as is provided with regard to any other demand against a deceased person's estate. And furthermore it shall be the duty of the court when any executor or administrator shall present his account for final settlement to examine into the evidence of the existance of all demands pretended to have been paid by such executor or administrator; and unless it shall appear to said court that such demands were such, and the evidence such, as the person claiming or making such demand might recover on a suit at law, the said court shall not allow such executor or administrator any credit for such demands or debts so paid or presented. And the said court is hereby authorised to hear and determine on evidence relating to any demands against any deceased person's estate at the time the same may be presented to them for settlement and if necessary to direct any issue of fact to be made, and tried in a summary way, as directed by the sixth section of this act with regard to insolvent estates.

Recompence for personal service.

Disbursments must be proved.

Duty of Court on final settlement.

Annual set-

Sec. 53. Executors, and administrators

with, or without a copy of the will annexed shall make settlement of their account with the court so far as they have administered the estate of the deceased at least once in every year: and it shall be the duty of the court at the first term to be holden by them annually to cause every executor and administrator to make such settlement as aforesaid, until the duties of their said administration be fully completed; and for this purpose the said court shall have power to issue attachment against any executor and administrator who shall fail to make settlement annually as aforesaid, and when any executor or administrator shall be attached or cited by authority of the court for a neglect of any duty belonging to his office such executor or administrator shall pay the costs of such attachment or citation out of his own proper goods.

Element of the accounts executor and administrator.

Sec. 54. No executor or administrator with or without the will annexed shall be at liberty to resign his administration or executorship.

Cannot resign.

Sec. 55. When any executors or administrators or guardians shall make settlement with the court of the proper county, it shall be the duty of such executors or administrators at least two months previous to presenting such accounts and vouchers to the court for settlement to give notice by written advertisements in three of the most public places in the county, to all legatees and other persons concerned that such administrators, guardians or executors intend to make settlement at the next circuit court to be holden for the county of their executorship or administration; a copy of which notice shall also be set up in the clerks office of said court; and no account

Notice by executors & administrators or guardians before settlement.

or settlement shall be made or allowed by said court unless such notice shall be given as aforesaid. And it shall be the duty of said court to make such settlement with such executors, administrators, or guardians as is provided by this act.

Devises to the widow.

Sec. 56. If any testator shall devise or bequeath to his wife any portion of his estate, such devise or bequest shall be deemed, and be taken in lieu and in bar of dower out of the estate of her deceased husband; in like manner as if the same were expressed; unless such testator shall by his last will and testament declare otherwise. *Provided*, That nothing in this section contained shall deprive the widow of her choice, either to dower of the estate or to the part or portion so denied or bequeathed to her; and it shall and may be lawful for any such widow, who will make choice of her dower within one year from the time of the death of the testator, before the court, or by deed executed and acknowledged before any justice of the peace of the county, and filed and entered in the clerks office of said court to declare that she will not except the provisions made for her by said will, or any part thereof; and renounce all benefits which she might claim under such will: but every widow not making such declaration within the time aforesaid, shall have no more of her husband's estate than is given to her by will.

Settlement of children before the death of the intestate.

Sec. 57. In case any child shall have any estate by settlement of the intestate, or shall be advanced by the intestate in his or her lifetime, by portion or portions equal to the share which shall be divided or alotted to the other children, or other descendents whether the same be by lands or personal

estate such person shall have no share of the estate of which the said person died seized or possessed. And in case any child shall have any estate by settlement from the intestate or shall have been advanced by the said intestate in his or her life time, whether the said portion or advancement be in real or personal property but not equal to the share which will be due to the other children or descendents then so much of the surplusage of the said estate of the intestate shall be distributed to such child or children as shall make the estate of the said child or children or descendents to be equal. *Provided however*, That when the persons to take shall not be of equal degree to the person dying seized or possessed, the several descendents, taking by representation to inherit and enjoy, if one person solely, if several persons as tenants in common, such share only as would have descended or been distributed to his her or their parent or ancestor, if such parent or ancestor had been then living.

Sale of intestate's land when there is a deficit of personal property.

Sec. 53. If any person shall die intestate being owner of lands and tenements within this territory at the time of his or her death, but not sufficient personal estate and slaves to pay his or her just debts in such case it shall and may be lawful for the administrator to apply to the superior court of the county where such lands and tenements may lie, which court shall order and direct as they may think proper from time to time, for the defraying the just debts, the sale of such lands and tenements or any part thereof. *Provided*, That the superior court shall make no such order, unless the administrator shall, together with his petition file a true and just account

upon his, her or their oath or affirmation of all the intestates debts which shall then become to his, her or their knowledge together with the inventory appraisment and list of sales. And before any such sale shall be made, the said court shall order a sufficient number of advertisements to be made out by the clerk giving notice of the lands to be sold, and of the time and place; which notice shall be delivered to the sheriff of the county where the land may lie, whose duty it shall be to put them up at the most public places in the county, at least twenty days before the time of sale. And the admiaistrator making such sale shall bring his proceedings to the next superior court to be holden for the county after the sale made, together with an oath or affirmation that such administrator did not become a purchaser of such lands himself, that they were not purchased for his use, and that he is in no wise interested in the purchase thereof, and laud, tenements and hereditaments so as aforesaid sold by order of the superior court, shall not be liable in the hands of the purchasers for the debts of the intestate.

Clerk to give copy of administtraton bond.

Sec. 59. The clerk of the circuit court shall give to any person that may request the same, upon payment of the legal fees, a true copy of any bond given by executors or administrators in pursuance of this act: and such copy certified by said clerk with the seal of the court annexed shall be sufficient evidence in any court, on any trial that shall be had for the breach of the conditions thereof.

Disposition of the money of minors.

Sec. 60. Executors, administrators or guardians may by leave of the court retain in his, her or their possession the money of

any minor or minors, paying therefor lawful interest, or shall under the direction o the circuit court put out minors money to interest, upon such mortgaged security as said court shall allow. And if such security so taken bona fide without fraud shall happen to prove insufficient, it shall be the loss of the minor. But if no person can be found by the person as aforesaid who may be willing to take the said money at interest then the said executor, administrator or guardian, shall only be responsible for the principal money, until it can be put out at interest as aforesaid, *Provided*, That the day of payment of the money so to be put out at interest at any time, shall not exceed one year from the day of the date of the obligation, or other security given for the same. *And provided also*, That at the end of each year the interest shall be reduced to, and made part of the principal by the said executor, administrator or guardian, and a new obligation be taken annually, where the money has been loaned out on security as aforesaid, on which obligation the interest shall be added to the principal, and bear an equal interest therewith. And executors, administrators or guardians shall not be liable to pay interest but for the surplusage of the decedents estate remaining in their hands or power, and belonging to the minor when the account of their administration are or ought to be settled and adjusted before the court.

Powers of court over executors administrators, guardians and other trustees of minors and persons dec'd.

Sec. 61. The judges of the circuit courts in the respective counties in this territory shall have power to award process, or cause to come before them all and every such person and persons, who as guardians, trustees, tutors, executors or administra-

tors or otherwise are or may be concerned or entrusted, or in any wise accountable for any estate real or personal belonging to any orphan or person under age, and cause them to make and exhibit within a reasonable time true and perfect inventories of the said estate, and to exercise and perform all and every other authority and duty assigned to said court by law. And it shall be the duty of the court to call all manner of persons that may be entrusted in any manner with the care of any estate of any deceased person for the benefit of any person, to account at the first term in every year or oftner if the court shall think proper. And if any person entrusted as aforesaid shall neglect to account to said court as aforesaid the court shall immediately issue an attachment against such person to be executed by the sheriff of the county where such person may live, and returned by said sheriff together with the delinquent; who shall pay all costs of attachment.

Choice and appointment of guardians next friends and tutors.

Sec. 62. The judges of the court shall have power to admit orphans or minors above the age of fourteen years, when, and as often as there may be occasion, to make choice of guardians and tutors: and appoint guardians, next friends, and tutors over such as are under the age of fourteen years. And at the instance and request of executors, administrators, guardians or tutors, to order and direct the binding out apprentices to trades, husbandry, or other employment as shall be thought fit. And all guardians or next friends who shall be appointed by any circuit court in this territory shall be allowed and received without further admittance to prosecute and defend

all actions and suits relating to the orphans of minors as the case may require in any court of record in this territory. And if any person who is a minor who has a right to sue shall wish to sue, it shall be lawful for such person to sue by his next friend, where none has been appointed without any formality other than the next friend acknowledging the same in open court after the action is commenced, and the minor agreeing to the same in open court, if above the age of fourteen and if under that age for the court to allow such person to continue as next friend and guardian. And next friends and guardians shall be responsible for costs of suit.

Further powers of court over persons concerned in case of minors &c.

Sec. 63. The said court shall have power in addition to the mode heretofore pointed out by this act with respect to attachments against executors, administrators, guardians, and others concerned in the case of any minor or orphan's estate, have further power for any disobedience of any order sentence or decree by them made in pursuance to this act, as for contempt, to imprison the body, or proceed by sequestration of lands and goods, as fully as any court of chancery may or can do.

Sale or mortgage of minor's lands.

Sec. 64. It shall be lawful for any guardian or tutor of any minor or minors whose ward or person committed to his care for tuition, where such minor may have lands and tenements for the purpose of education of such minors; for such guardians or tutors to apply to the court for the sale of such lands and tenements, or such part thereof as may be necessary, or to mortgage the same giving the premises for security, for any sum not less than two thirds of the real value as the said court shall think proper. And the court shall from

Appropriations for their education.

time to time as they may think the circumstances of the minor's estate shall justify, direct and order the education of such minors, and shall appropriate such sums therefor as may be necessary, out of said minor's estate. And it shall be the duty of guardians and tutors when they make their annual settlements herein before required by this act; to make a statement under oath of the application of any money that may have been directed by the court to be by them applied to the education of their wards, or person committed to their care for tuition, and if any guardian or tutor shall refuse to make such statement as aforesaid, such delinquent shall be proceeded against in the same manner as is herein before directed with respect to delinquent guardians.

Appeal.

Sec. 65. If any person or persons shall be aggrieved with any definitive judgment or sentence of the circuit court, with respect to any matter relating to the administration of any estate, or the guardianship of any person's estate or body it shall be lawful for them or him to appeal from the same to the superior court: which appeal upon security given, as in the other cases shall be granted accordingly. And such appeal shall be a supersedeas to all further proceedings in the court below till the same is determined.

Power of executors, administrators guardians &c. to receive and give discharges for debts.

Sec. 66. If any executor, administrator, or guardian or trustee shall receive and give discharges for any debts, rents, duties or sums of money, belonging to any orphan or minor for whom they were or are entrusted; all such discharges or receipts shall be binding upon the orphan or minor when he or she attains to full age, and his

heirs; and shall be most effectual in law to discharge the person taking the same. *Provided however*, That nothing herein contained shall discharge the executor administrator or guardian or other person aforesaid from accounting to the minor or other person, where such receipt may not have been legally given or given for a fraudulent purpose.

Guardians &c. how finally discharged.

Sec. 67. When any of the said minors attain to their full ages that is to say when they arrive at the age of twentyone years, and the person or persons so as aforesaid intrusted or concerned for them, having rendered accounts to the court according to law, and paid the minors or others entitled their full dues, then such minor or minors shall acknowledge satisfaction in the said court; but if any of them refuse so to do then the said court shall certify how such persons concerned have accounted and paid; which shall be a sufficient discharge to the said persons so far as they have accounted and paid fairly.

To whom guardianship shall not be committed or apprentices bound.

Sec. 68. None of the courts shall have power to order or commit the tuition or guardianship of any orphans or minors, or to bind them apprentices to any person or persons whose religious persuation shall be different from what the parents of such orphan or minor professed at the time of their decease; or against the minor's own mind or inclination so far as he or she has discretion or capacity to express or signify the same, or to persons that are not of good repute. So as others of the same religious persuation may or can be found.

Guardians bond.

Sec. 69. The said circuit court shall require of guardians or tutors appointed by

them in pursuance of this act bond and security in double the amount of the value of the minor's estate for the faithful discharge of his office, and also may compel such guardian to give supplementary security if they have cause to suspect that a surety of a guardian is failing; and if he neglects so to do, the court may displace him.

Orphans without estate to be apprentied.

Sec. 70. Every orphan or minor who has no estate sufficient for maintenance, may by order of the court be bound apprentice by his guardian until the age of twentyone, if a boy, or of eighteen if a girl, to some master or mistress who shall covenant to teach the apprentice some art, trade or business, to be particularized in the covenant: and also reading and writing, and if a boy common arithmetic including the rule of three. Which indenture shall be approved by the court and recorded.

Complaints by and against apprentices.

Sec. 71. The court shall at all times receive the complaints of apprentices, who reside within the jurisdiction of such court against their masters or mistresses, alledging undeserved or immoderate correction, insufficient allowance of food, raiment, or lodging, or want of instruction; and may hear and determine such cases in a summary way, making such orders thereon as in their judgment will relieve the party injured in future, or removing the apprentices, and binding them with other masters, or mistresses when it shall seem necessary: and also in the same manner hear and determine complaints of masters or mistresses against their apprentices, for desertion without good cause; and may oblige the latter for loss occasioned thereby to make retribution by further services after the ex-

piration of the time for which they had been bound.

Relinquishment of dower.

Sec. 72. It shall and may be lawful for any married woman to release her right of dower of, in, and to any lands and tenements whereof the husband of such widow may be possessed or seized by any legal or equitable title during coverture, by joining such husband in the deed or conveyance whereby such lands and tenemens are granted or conveyed, and appearing before any judge of the superior court, or circuit court of this territory; or before any justice of the peace in the county where such lands and tenements lie: and it shall be the duty of the judge or justice to acquaint such woman, with the contents of such deed or other conveyance and to examine her apart from her husband, whether she executed such deed or conveyance voluntarily, and without compulsion or undue influence of her husband: and to endorse a certificate of such examination as aforesaid made, on the deed or conveyance; and every deed executed, and certified by such judge or justice, that such woman executed the same voluntary, and without undue influence of her husband, and recorded according to law shall be sufficient to discharge and bar the claims of such woman from any claim to dower in such lands and tenements conveyed by such deed or conveyance.

Rights of widow before assignment of dower.

Sec. 73. Every widow after the death of her husband may tarry in the mansion place of her husband, and the plantation thereto belonging rentfree, until her dower shall be assigned to her. And whosoever shall deforce widows of their dower of lands whereof the husband died seized, or

of such mansion house or plantation, shall pay damages to such widows to the value of the whole dower to them belonging from the time of the death of their husbands until the day that they shall in due course of law recover possession of such dower.

Widow's petition for dower.

Sec. 74, Any widow claiming dower in lands or slaves, may present her petition stating the circumstances of the case to the judge of the circuit court of the county where such lands may lie, or in which the slaves may be found, of which she claims dower in term time; or file her petition in vacation in the clerks office, whereupon it shall be the duty of the said court to order, or of the clerk in vacation to issue a summons endorsed on said petition directed to the person or persons against whom she complains commanding such person or persons to appear at the next term of said court, to answer the complaint of such widow: which petition and summons shall be served at least ten days before the time appointed therein for the defendant or defendants to appear.

Proceedings on petitions for dower.

Sec. 75. The court to whom any such petition is presented may after the service and return of the summons aforesaid compell the defendant or defendants to answer, and may proceed upon any such petition and answer although any of the defendants may be under the age of twenty one years according to the course and rules of equity: and shall make such decree for the assignment of such dower in such manner as shall be most agreable to equity: And such assigument of dower shall be as effectual as if the same were in the ordinary method of the common law. And it shall further be the duty of such court on decreeing an as-

signment of dower, to appoint three respectable inhabitants of the county where such lands may lie, whose duty it shall be to proceed to the premises, and by actual survey and admeasurement to lay off and ascertain the boundary lines of such dower lands in pursuance of the sentence and order of said court; and make return of their proceedings to the next circuit court to be holden for such county. And if such return is confirmed by the court, it shall be the duty of the court to cause such return and proceedings to be entered of record. And if any of the persons appointed as aforesaid shall fail to take upon themselves the execution of said appointment, it shall be the duty of the court from time to time to appoint others till such duty be completed.

Jury.

Sec. 76. And if any material facts are asserted by one party and denied by the other, the court shall at the request of either party cause such facts to be tried by a jury. And an appeal from the final judgment or decison of the court in any case respecting dower, may be had to the superior court of the proper county as in other cases.

Appeal.

Marriage contracts.

Sec. 77. The same proceedings that are herein before provided with respect to dower shall be had for the purpose of carrying into effect the marriage contract that may have been heretofore made, or shall hereafter be made in pursuance of any laws, usages and customs now or hereafter in force within this territory.

Removal of slaves held in dower, out of the territory.

Sec. 78. If any widow possessed of a slave or slaves as of the dower of her husband shall remove, or voluntarily permit to be removed out of this territory such slave or slaves or any of their increase,

without the consent of him, her or them in reversion, such widow shall forfeit all and every such slave or slaves which she holds of the endowment of her husband unless by consent of the person or persons that shall by law be entitled to the reversion thereof. *Provided nevertheless*, That if the consent of those in reversion cannot be had, it shall and may be lawful for said widow to take the slave or slaves so in her possession, of the endowment of her husband to the circuit court of the proper county, and there have their names, ages and description recorded: And further if the said widow will then and there give good and sufficient security to be approved of by the court, in double the value of the slaves so to be removed, conditioned, that the same slaves shall not be wasted, but shall be forthcoming to him, her or them in reversion after the death of said widow in case the slaves out-live her, or such part thereof with their additional increase: then in that case it shall and may be lawful for said widow to remove or permit to be removed said slave or slaves, any dissent of those in reversion to the contrary notwithstanding. But the consent of those in reversion shall supercede the necessity of such security.

Removal of slaves by him who holds in right of his wifes dower from former husband.

Sec. 79. If any widow possessed as aforesaid shall marry to a husband who shall remove, or voluntarily permits to be removed out of this territory any such slave or slaves, or any of their increase without the consent of him, her or them in reversion; in such case it shall and may be lawful for the person in reversion to take and possess the same slaves which he holdeth in right of his wife's dower for and during the life

of said husband, *Provided*, That if the husband will have a description of the slaves, an their increase then in being recorded, and give security as herein before provided to be given by the widow removing said slaves, that then he may remove the same as in the case of the widow removing the same. But the consent of those in reversion shall supercede the necessity of giving such security.

Sale of intestates property when a division in kind cannot be had.

Sec. 80. When lands, tenements, and slaves shall descend from any person dying intestate, and an equal division thereof cannot be had in kind, on account of the nature of the property, it shall be lawful for the superior court of the proper county, or the circuit court of the county from which administration is granted, on the application of any one interested to direct the sale of such lands tenements and slaves, and to cause the money arising therefrom to be distributed according to the rights of each claimant. *Provided always*, That each claimant shall be duly summoned to shew cause if any he can against such sale.

This act not to effect estates declared insolvent before its passage.

Sec. 81. The provisions of this act with respect to the adjustment of insolvents estates shall not extend to any estate which before the passage of this act, has been represented to the court of common pleas of any county as insolvent. But in all those cases the creditors of such insolvent estate shall be entitled to payment of the remaining assetts of any deceased persons estate in the same manner such creditors would have been entitled to payment and apportionment, if this act had not been passed. And all executors, administrators, guardians and tutors heretofore appointed shall after the passage of this act be governed by

the provisions of this act, so far as respects any act or acts by them to be done in completing the duties of their appointments as by this section excepted.

Repeal of former laws.

Sec. 82. The statute of this territory passed by the secretary and judges thereof the fourth day of July in the year one thousand eight hundred and seven entitled an act directing the probate of wills, and the descent of intestates' real estate, and the distribution of their personal estates and for other purposes therein mentioned, and an act passed the fourth day of July in the year aforesaid by the secretary and judges of the said territory entitled an act establishing orphans courts, and an act passed by the governor and judges of the said territory on the eighteenth day of June in the year one thousand eight hundred and eight entitled an act concerning the dower of widows, and marriage contracts, and the second section of an act passed by the secretary and judges of said territory on the seventh day of July in the year eighteen hundred and seven entitled an act in addition to an act establishing recorders' offices and providing a mode by which married woman may release their right of dower: and also the twentyeighth and twenty-ninth and thirtieth sections of an act passed by the governor and judges of the Indiana territory the first day October one thousand eight hundred and four entitled a law respecting slaves, be and the same are hereby repealed.

This act shall take effect and be in force from and after the passage thereof.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 21, 1815.
WILLIAM CLARK,
Governor of Missouri Teritory.

RESOLUTIONS

To provide for the distribution of the laws of the territory of Missouri and for other purposes.

RESOLVED *by the General Assembly of the Territory of Missouri*, That as soon as the acts passed at the present session shall be printed, the governor shall cause a sufficient number of said laws (allowing one copy for each person herein after named in each county) to be deposited in the offices of the clerks of the county courts and it is hereby made the duty of said clerks to distribute such laws on application of those entitled to copies in manner hereinafter provided to wit. To the governor and secretary each one copy. To the judges of the general or superior court, to the judges of the circuit courts, to the clerks of the circuit courts, to the clerks of the county courts, to the sheriffs of each county, to every justice of the peace, to every constable, to the prosecuting and circuit attornies, to the territorial auditor, to the territorial treasurer, to the coroner of each county, to every member of the general assembly, each, one copy, and to the clerks of the legislative council and house of representatives each five copies for the use of their respective houses: *Provided*, it shall

be the duty of every officer both civil and military on his or their going out of office to deliver the copy of the law with which he shall have been furnished in pursuance of this act to his successor in office.

Resolved also, That it shall be the duty of the governor of this territory to have as many copies of the militia law struck off in pamphlets as he may deem necessary to be distributed amongst the several militia officers of this territory seperate from the code of laws to be printed, and he is hereby authorised to distribute them in such manner as he shall deem best, for the information of the several militia officers throughout this territory.

JAMES CALDWELL,
Speaker of the House of Representatives.
WM. NEELY,
President of the Legislative Council.
APPROVED, JANUARY 21, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

TERRITORY OF MISSOURI.

SECRETARY'S OFFICE,
April, 22d, 1815

I CERTIFY that the foregoing Acts of the Legislature, commencing with "An act to reduce into one the several laws regulating the Militia," ending with "Resolutions to provide for the distribution of the laws of the territory of Missouri and for other purposes," and contained in 164 Octavo pages, have been compared and found literally conformable with the originals preserved in my office.

FREDERICK BATES.

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